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असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 24th April, 2015:—

BILL NO. 106 OF 2015

A Bill to provide for prevention, control and management of HIV epidemic in India; protection and promotion of human rights of persons living or affected by HIV/AIDS; for establishment of Authorities at the National, State, Union territory and district level to promote such rights and to promote prevention, awareness, care, support, treatment programmes to control the spread of HIV/AIDS and for matters connected therewith or incidental thereto.

WHEREAS the spread of HIV/AIDS is a matter of national concern;

AND WHEREAS there is a need to prevent and control the spread of HIV/AIDS;

AND WHEREAS there is a need to protect and promote the human rights of persons who are HIV positive or are most vulnerable to HIV/AIDS;

AND WHEREAS there is a need for effective and accessible care, support and treatment for persons living with or affected by HIV/AIDS;

AND WHEREAS there is a need to protect the rights of healthcare providers and other such persons providing services to person affected to HIV/AIDS;

AND WHEREAS the Government of India has signed various treaties, agreements and declarations relating to HIV/AIDS, the protection of rights of persons who are HIV positive or affected by HIV/AIDS or are most vulnerable to HIV/AIDS and prevent the spread of HIV/AIDS, including the International Convention on Civil and Political Rights, the

International Convention on Economic, Social and Cultural Rights and the United Nations General Assembly Special Session Declaration of Commitment on HIV/AIDS;

AND WHEREAS it is necessary to give effect to those treaties and declarations under article 253 of the Constitution of India.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent
and
commencement.

1. (1) This Act may be called the HIV/AIDS Act, 2015.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "AIDS" means Acquired Immune Deficiency Syndrome,—a condition characterized by a combination of signs and symptoms, caused by HIV, which attacks and weakens the body's immune system making the HIV-positive person susceptible to other life threatening conditions and shall include such signs and symptoms as the National HIV/AIDS Authority may, from time to time, specify;

(b) "appropriate Government" means —

(i) the Central Government in the case of the territory comprising the whole of India,

(ii) the State Government in the case of territory comprised in a State,

(iii) the Union territory Administration, in the case of territory comprised in a Union territory having its own legislature, and

(iv) the Central Government, in the case of other Union territories;

(c) "capacity to consent" means an individual's ability determined on an objective basis irrespective of such individual's age, to understand and appreciate the nature and consequences of a proposed healthcare service, treatment, intervention, procedure or research, or of a proposed disclosure of HIV-related information, and to make an informed decision concerning such service, treatment, intervention, procedure or disclosure;

(d) "children affected by HIV/AIDS" means persons below the age of eighteen years who are HIV positive, or have a parent or guardian who is HIV-positive, or have lost a parent or guardian due to AIDS or live in households fostering children orphaned by AIDS;

(e) "court" means a civil, criminal or revenue court and includes any tribunal or any other authority, constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions;

(f) "discrimination" includes any act or omission including a policy, law, rule, practice, custom, tradition, usage, condition or situation which directly or indirectly, expressly or by effect, immediately or over a period of time,—

(i) imposes burdens, obligations, liabilities, disabilities or disadvantages on,

(ii) denies or withholds benefits, opportunities or advantages from, or

(iii) compels or forces the adoption of a particular course of action by, any person or category of persons, owing to one or more HIV-related grounds.

Explanation.—For the purposes of this clause, HIV-related grounds mean—

- (i) HIV status, actual or perceived;
- (ii) actual or perceived association with an HIV-positive person; or
- (iii) actual or perceived risk of exposure to HIV infection; or
- (iv) any other ground where discrimination based on that ground—
 - (a) causes or perpetuates or has a tendency to perpetuate systemic disadvantage in respect of a category of persons, or
 - (b) undermines human dignity, or
 - (c) adversely affects the equal enjoyment of a protected person's rights and freedoms in relation to HIV/AIDS;
- (g) "domestic relationship" means a relationship between two or more persons who live or have lived together in a shared household, and are related by consanguinity or marriage or through a relationship in the nature of marriage or adoption or living together as members of joint family;
- (h) "healthcare provider" means an individual whose vocation or profession is directly or indirectly related to the maintenance of the health of another individual and includes any physician, nurse, paramedic, psychologist, counsellor or other individual providing medical, nursing, psychological or other healthcare services of any kind;
- (i) "HIV" means the Human Immuno Deficiency Virus;
- (j) "HIV/AIDS Authority", means a National, State, Union territory or District HIV/AIDS Authority, as the case may be;
- (k) "HIV-positive person" means a person who tests positive for HIV with a confirmatory HIV test;
- (l) "HIV-related information" means any information related to the HIV status of a person and includes—
 - (i) information related to or concerning the undertaking, performing or result of an HIV test; or
 - (ii) information related to or concerning the HIV or HIV antibody status of a person; or
 - (iii) information related to or concerning the care, support or treatment of a person; or
 - (iv) any other private information concerning a person, collected, received, accessed or recorded in connection with an HIV-related test, HIV-related treatment or HIV-related research or the HIV status of a person; or
 - (v) information which may identify such person.
- (m) "HIV status" means the actual or perceived presence in a person's body of HIV or symptoms of AIDS;
- (n) "HIV test" means a test to determine the presence of the antibody or antigen of HIV, or of HIV infection;
- (o) "HIV-related test" includes an HIV test and tests to determine the presence of conditions related to HIV;
- (p) "IEC" means Information, Education and Communication;
- (q) "informed consent" means consent given, specific to a proposed intervention, without any force, undue influence, fraud, threat, mistake or misrepresentation and

obtained after disclosing to the person giving consent adequate information including risks and benefits of, and alternatives to, the proposed intervention in a language and manner understood by such person;

(*r*) "institution" means any person carrying on systematic activity by co-operation between two or more persons in the previous twelve months, in one or more places with functional integrity, for wages, consideration or otherwise, for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes but does not include any seasonal agricultural operation;

(*s*) "partner" means a spouse and includes a person with whom another person has a relationship in the nature of marriage;

(*t*) "person" includes an individual, a Hindu Undivided Family, any other family, a company, a firm, an association of persons or a body of individuals, whether incorporated or not, in India or outside India, any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956, any body corporate incorporated by or under the laws of a country outside India, a co-operative society registered under any law relating to co-operative societies, a local authority, and every other artificial juridical person;

1 of 1956.

(*u*) "prescribed" means as prescribed in the rules under this Act;

(*v*) "protected person" means a person who is—

(*i*) HIV-positive; or

(*ii*) actually, or perceived to be, associated with an HIV-positive person; or

(*iii*) actually, or perceived to be, at risk of exposure to HIV infection; or

(*iv*) actually or perceived to be, a member of a group actually or perceived to be, vulnerable to HIV/AIDS.

(*w*) "reasonable accommodation" means the alteration of policies, practices, or procedures of or the modification of, or adjustment to, a job or work or other environment or the way things are usually done that enables an HIV-positive person, who is otherwise qualified to enjoy equal benefits and privileges of the programme, service, or activity, or to perform the essential functions of a job or to fulfil the requirements of an educational programme or course, as a similarly-situated person who is not HIV-positive, and includes job restructuring, part-time or modified work or education schedules, or reassignment to a vacant position;

(*x*) "regulations" means regulations made under this Act;

(*y*) "significant risk" means,—

(*i*) the presence of a significant risk body substance; or

(*ii*) a circumstance which constitutes significant risk for transmitting or contracting HIV infection; or

(*iii*) the presence of an infectious source; or

(*iv*) such other risks as the National HIV/AIDS authority may, from time to time, specify.

Explanation 1.—"Significant risk body substances" includes blood, blood products, semen, vaginal secretions, breast milk, tissue and the body fluids—cerebrospinal, amniotic, peritoneal, synovial, pericardial and pleural.

Explanation 2.— "circumstances which constitute significant risk of transmitting or contracting HIV infection" includes,—

(i) sexual intercourse including vaginal, anal or oral sexual intercourse which exposes an uninfected person to blood, blood products, semen or vaginal secretions of an HIV-positive person;

(ii) sharing of needles and other paraphernalia used for preparing and injecting drugs between HIV-positive persons and uninfected persons;

(iii) the gestation, birthing or breast feeding of an infant when the mother is an HIV positive person;

(iv) transfusion or transplantation of blood, blood products, organs or other tissues from an HIV-positive person to an uninfected person, provided such blood, blood products, organs or other tissues have not been tested conclusively for the antibody or antigen of HIV and have not been rendered non-infective by heat or chemical treatment;

(v) other circumstances not identified above during which a significant risk body substance, other than breast milk, of an HIV-positive person contacts or lay contact mucous membranes including eyes, nose or mouth, non-intact skin including open wounds, skin with dermatitis condition or abraded areas or the vascular system of an uninfected person. Such circumstances include but are not limited to needle-stick or puncture wound injuries and direct saturation or permeation of these body surfaces by the infectious body substance;

but does not include—

(i) exposure to urine, faeces, sputum, nasal secretions, saliva, sweat, tears or vomit that does not contain blood that is visible to the naked eye;

(ii) human bites where there is no direct blood to blood, or blood to mucous membrane contact;

(iii) exposure of intact skin to blood or any other blood substance; and

(iv) occupational settings where individuals use scientifically accepted universal precautions, barrier techniques and preventive practices in circumstances which would otherwise pose a significant risk and such barriers are not breached and remain intact.

(z) "State" shall have the meaning assigned to it under article 12 of the Constitution.

(za) "universal precautions" means infection control measures that prevent exposure to or reduce the risk of transmission of pathogenic agents including HIV and includes education, training, personal protective equipment such as gloves, gowns and masks, hand washing, and employing safe work practices.

3. (1) Any person applying this Act must interpret its provisions to give effect to—

(a) the letter and spirit of the Constitution, the provisions of which include the guarantee of equality, life and personal liberty and the freedom of speech, expression and movement;

(b) compliance with international law obligations including treaty obligations in terms of, amongst others, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the United Nations General Assembly Session Declaration of Commitment on HIV/AIDS and the Convention on the Elimination of All Forms of Discrimination against Women and customary international law; and

(c) the Preamble of this Act, thereby fulfilling the spirit, purpose and objects of this Act.

General
Declaration
of Principles
and
Interpretation.

(2) In the adjudication of any proceedings, which are instituted in terms of or under this Act, the Court shall apply the principle of purposive interpretation and in balancing rights shall follow the principle of the least restrictive alternative.

(3) In the adjudication of any proceedings, which are instituted in terms of or under this Act, the following principles shall apply:—

(a) the expeditious processing of cases, which facilitates participation by the parties to the proceedings;

(b) access to justice to all persons in all judicial and other dispute resolution fora;

(c) the use of corrective or restorative measures in conjunction with measures of a deterrent nature; and

(d) the development of special skills and capacity for persons applying this Act in order to ensure effective implementation and administration thereof.

(4) In the application of this Act, the following shall be recognised and taken into account:—

(a) the existence of systemic discrimination and inequalities, particularly in respect of class, disability, religion, race, caste, sex and place of birth in all spheres of life as a result of past and present discrimination, including that brought about by patriarchy; and

(b) the need to take measures at all levels to eliminate such discrimination and inequalities.

CHAPTER II

PROHIBITION OF DISCRIMINATION

Prohibition of
Discrimination.

4. (1) No person shall be subject to discrimination in any form by the State or any other person in relation to any sphere of public activity including,—

(a) denial of, or termination from, employment or occupation unless in the case of termination,—

(i) a person, who is otherwise qualified, in the written assessment of an independent healthcare provider qualified to make such an assessment, poses a significant risk of transmission of HIV to other persons in the workplace, or is unfit to fulfil the duties of the job; and

(ii) the employer is unable to provide reasonable accommodation due to undue administrative or financial hardship in which case the employer shall along with the letter of dismissal provide a written statement to such person stating the nature and extent of such hardship:

Provided that if the employer fails to provide such written statement, it shall be presumed that there is no such undue administrative or financial hardship;

(b) unfair treatment in, or in relation to, employment or occupation;

(c) denial or discontinuation of, or unfair treatment in, healthcare services;

(d) denial or discontinuation of, or unfair treatment in, educational services;

(e) denial or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public, whether or not for a fee including shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads, burial grounds or funeral ceremonies and such other public places;

(f) denial or discontinuation of, or unfair treatment with regard to, the right of movement;

(g) denial or discontinuation of, or unfair treatment with regard to, the right to reside, purchase, rent, or otherwise occupy, any property;

(h) denial or discontinuation of, or unfair treatment in, the opportunity to stand for or hold public or private office;

(i) denial of access to, removal from, or unfair treatment in, a State or private institution in whose care or custody a person may be;

(j) denial of, or unfair treatment in, the provision of insurance unless such unfair treatment is based on and supported by actuarial studies;

(k) isolation or segregation of a protected person;

(l) HIV testing as a pre-requisite, for obtaining employment, or accessing healthcare services or education or, for the continuation of the same or, for accessing or using any other service or facility.

Explanation.— Without prejudice to the generality of the provisions of this Act, Schedule I to this Act is intended to illustrate and emphasise some instances of unfair treatment, which are discriminatory, in order to address and eliminate such treatment.

(2) Nothing in this Act shall prevent the State or any other person from taking measures for the protection, benefit or advancement of protected persons including the greater involvement of HIV-positive persons for the purpose.

5. No person shall, publish, propagate, advocate or communicate by words, either spoken or written, or by signs or by visible representations or otherwise against any protected person, or group or category of protected persons, in general or specifically, anything or disseminate or broadcast any information, or publish or display any advertisement or notice, that could reasonably be construed to demonstrate an intention to be harmful or to incite harm, promote or propagate hatred, or which is likely to expose protected persons to hatred, discrimination, harm or physical violence.

Prohibition of hate and discriminatory propaganda.

6. No person shall subject, or threaten to subject any other person or persons to any detriment on the grounds that such person or persons have taken or intend to take or are believed to have taken or intend to take any of the following actions:—

Prohibition of victimisation.

(a) make a complaint under this Act; or

(b) bring proceedings under this Act against any person; or

(c) furnish any information, or produce any documents to a person exercising or performing any power or function under this Act; or

(d) appear as a witness in a proceeding under this Act; or

(e) assert their rights or the rights of any other person under this Act; or

(f) allege that a person has done an act that is unlawful by reason of a provision of this Act.

CHAPTER III

INFORMED CONSENT

7. Every person shall have the right to, bodily and psychological integrity including the right, not to be subject to medical treatment, interventions or research without that person's informed consent.

Right to autonomy.

Informed consent for HIV testing, treatment and research.

8. (1) Subject to the provisions of this Act, no HIV-related test or HIV-related treatment of a person or HIV-related research involving a person, shall be undertaken or performed except with the informed consent of that person or that person's representative in accordance with sub-section (2) below.

(2) The informed consent of a person's representative shall be taken only in the following circumstances:

(a) where the person has died, from that person's partner or if he has no partner from the next of kin or administrator or executor;

(b) where in the case of an HIV-related test or HIV-related treatment:—

(i) the person is under the age of twelve years, from that person's parent or legal or *de-facto* guardian or next friend; and

(ii) the person is between the ages of twelve and sixteen years and, in the written assessment of the concerned healthcare provider lacks the capacity to consent, from that person's parent or legal or *de-facto* guardian or next friend.

(c) where in the case of HIV-related research, the person is below the age of eighteen years, from that person's parent or legal or *de-facto* guardian or next friend.

(d) where, in the written assessment of the concerned healthcare provider, the person lacks the physical or mental capacity to consent, from that person's partner, or relative or legal or *de-facto* guardian;

(e) in an emergency situation, where the person is unconscious, or otherwise unable to give informed consent, from that person's partner, or relative or legal or *de-facto* guardian;

(f) in clauses (a) to (e) above, where a representative of the person is not available to give informed consent, or in clause (e) above, in the opinion of the healthcare provider, is not acting in the best interest of the person, then the same shall be taken from an authorised representative of the concerned institution or an independent healthcare provider:

Provided that where informed consent is given by a person's representative under sub-clause (2) (b), (c) and (d) best efforts shall be made to involve the person for whom informed consent is being given in the informed consent process and where informed consent is being given by the representative under sub-section (2) (e) the person for whom informed consent is being given shall as soon as possible be informed of the decision.

(3) Informed consent taken under sub-section (1) or (2) shall be recorded in writing:

Provided that where a person is unable to give informed consent in writing, informed consent may be taken verbally from that person and a record of such informed consent shall be entered into records maintained by the person taking the informed consent.

(4) The National HIV/AIDS Authority shall within one hundred and eighty days of its constitution, notify counselling protocols that shall be applicable to all persons including counselling protocols for HIV-tests, HIV-related tests, HIV-related treatment and HIV-related research and counselling protocols for children who are HIV positive including the manner in which such children shall be involved in the informed consent process and how and who shall disclose their status to them.

(5) Every institution involved in HIV-related testing, HIV-related treatment or HIV-related research shall follow counselling protocols for women and children to ensure they have access to conducive settings that facilitate their individual decision making for HIV-related testing, HIV-related treatment or HIV-related research.

(6) Informed consent for an HIV-test shall be valid only when the person being tested is provided pre-test and post-test counselling in accordance with the Regulations:

Provided that where a representative of the person is giving informed consent such representative shall also receive counselling.

(7) Informed consent for HIV-related treatment shall be valid only when the person who is to be administered the treatment, and such person's representative, in case the informed consent is being given by a representative under sub-section (2), is explained the risks and benefits of the proposed treatment, including the nature of HIV/AIDS, the treatments available for it, the alternatives that may be available, the stages when they can be administered, their duration, their side-effects, the likely expenses and the adherence requirements of such treatment.

(8) Informed consent for HIV-related research shall be considered valid only when the potential research subject, and such person's representative, in case the informed consent is being given by a representative under sub-section (2), is comprehensively informed of the aims, methods, sources of funding, any possible conflicts of interest, institutional affiliations of the researcher, the anticipated benefits and potential risks of the study, the discomfort it may entail and the right to abstain from participation in the research or to withdraw consent to participate in the research at any time without any adverse consequences.

9. Informed consent for an HIV-related test shall not be required in the following circumstances:—

Exceptions to informed consent for an HIV-related test.

(a) when an HIV-related test is ordered by a court:

Provided that no court shall order an HIV-related test to be carried out either as part of a medical examination or otherwise, unless the court,—

(i) determines by an order that the carrying out of the HIV-related test is necessary for the determination of issues and in the interest of justice in a matter before it; and

(ii) ensures that the person being tested receives pre-test and post-test counselling and that the HIV-related information of that person is not disclosed except in accordance with the provisions of this Act.

(b) for HIV-related testing in the procuring, processing, distribution or use of a human body or any part thereof, including organs, tissues, blood, semen or other body fluids for use in medical research or therapy or for transplantation, transfusion to, or artificial insemination of persons:

Provided that if the test results are requested by a donor prior to donation, then the donor will be referred to a Voluntary Counselling and Testing Centre and shall not be entitled to the results of the test unless the donor has received post-test counselling from the Voluntary Counselling and Testing Centre;

(c) for epidemiological or surveillance purposes where the HIV test is anonymous and unlinked and is not for the purpose of determining the HIV status of a person:

Provided that persons who are subject of such epidemiological or surveillance studies shall be informed of such studies in accordance with the Regulations.

10. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall be subject to an HIV test except in accordance with the provisions of this Act.

HIV testing.

(2) Subject to the provisions of this Act, no HIV test may be recommended or performed except,—

(a) for the voluntary determination of the HIV status of a person; or

(b) if it is medically indicated for the appropriate treatment or care and in the best interest of the person being tested.

(3) An HIV test may be performed only by,—

(a) a Voluntary Counselling and Testing Centre; or

(b) a pathology laboratory, either independent or attached to a healthcare institution; or

(c) a blood bank licensed under the law for the time being in force:

Provided that the Central Government shall, within three hundred and sixty days of the commencement of this Act, formulate and notify regulations for the recognition of Voluntary Counselling and Testing Centres and pathology laboratories by the concerned HIV/AIDS Authority which shall provide *inter alia* the requirements for recognition and the time period within which a decision on recognition shall be taken and existing Voluntary Counselling and Testing Centres and pathology laboratories shall, within ninety days of the notification of such regulations apply for such recognition and from the date of such notification only recognised Voluntary Testing and Counselling Centres, pathology laboratories and blood banks shall perform HIV tests.

(4) A person who seeks to voluntarily determine their HIV status and who wishes to remain anonymous shall have the right to do so, and to provide informed consent in writing by using a coded system that does not link their individual identity with the request or result of the HIV test.

(5) No person shall market or sell technologies for self-testing of HIV except in accordance with the regulations.

CHAPTER IV

DISCLOSURE OF INFORMATION

Right to
Privacy.

11. Every person shall have the right to privacy.

Disclosure of
Information.

12. (1) Notwithstanding anything contained in any other law for the time being in force, no person shall be compelled to disclose HIV-related information or any other private information concerning themselves except when a court determines by an order that the disclosure of such information is necessary for the determination of issues and in the interest of justice in a matter before it.

(2) Notwithstanding anything contained in any law for the time being in force, no person shall disclose or be compelled to disclose HIV-related information or any other private information of another person, imparted in confidence or in a relationship of a fiduciary nature, except with the informed consent of that person or a representative of the person as specified in sub-section (2) of section 8:

Provided that where the relationship is of a fiduciary nature, informed consent shall be recorded in writing:

Provided further that all HIV-related information shall be presumed to have been imparted or received in confidence unless otherwise shown.

(3) Informed consent for disclosure of HIV-related information or private information is not required in case the disclosure is made,—

(a) by a healthcare provider to another healthcare provider who is involved in the provision of care, treatment or counselling of a person, when such disclosure is necessary to provide care or treatment in the best interest of that person; or

(b) by an order of a court when it determines by such order that the disclosure of such information is necessary for the determination of issues and in the interest of justice in a matter before it; or

(c) in suits or legal proceedings between persons, where the disclosure of such information is necessary in the initiation of such proceedings or for instructing counsel; or

(d) in accordance with section 13; or

(e) if it relates to statistical or other information of a person that could not reasonably be expected to lead to the identification of that person; or

(f) in accordance with the regulations under section 15.

(4) Any person to whom disclosure is made under this Chapter is prohibited from making further disclosure except as provided in this Chapter.

(5) Any person to whom disclosure under clause (e) of sub-section (3) is made shall not use such information to identify the person to whom it pertains or present it in a manner whereby such identification is possible.

13. A healthcare provider who is a physician or a counsellor, may inform the partner of a person under their direct care of such person's HIV-positive status only when,—

Partner notification.

(a) the healthcare provider *bona-fide* and reasonably believes that the partner is at significant risk of transmission of HIV from such person;

(b) the HIV-positive person has been counselled to inform such partner;

(c) the healthcare provider is satisfied that the HIV-positive person will not inform such partner;

(d) the healthcare provider has informed the HIV-positive person of the intention to disclose the HIV-positive status to such partner; and

(e) such disclosure to the partner is made in person and with appropriate counselling or referrals for counselling;

Provided that the healthcare provider shall have no obligation to identify or locate the partner of an HIV-positive person:

Provided further that no criminal sanction or civil liability shall arise against a healthcare provider for the disclosure or non-disclosure, as the case may be, of confidential HIV related information to a partner in accordance with section 13.

Exception: The healthcare provider shall not inform a partner, particularly in the case of women, where there is a reasonable apprehension that such information may result in violence, abandonment or actions which may have a severe negative effect on the physical or mental health and safety of the HIV positive person, their children or any person who is close to them.

14. Every person who is HIV-positive, and is aware of such status and, has been counselled in accordance with this Act or is aware of the nature of HIV and how it is transmitted, shall take all reasonable measures and precautions to prevent the transmission of HIV to others which may include adopting strategies for the reduction of risk or informing in advance any sexual contact or person with whom needles are shared of that fact.

Duty to prevent transmission.

Exception: There shall be no duty to prevent transmission, particularly in the case of women, where there is a reasonable apprehension that the measures and precautions may result in violence, abandonment or actions which may have a severe negative effect on the physical or mental health and safety of the HIV-positive person, their children or someone who is close to them.

15. Every institution that records or stores HIV-related information of a person shall, within one hundred and eighty days of the commencement of this Act, formulate and implement data protection measures in accordance with the Regulations, to ensure that such information is protected from disclosure.

Data protection.

Explanation.—Data protection measures shall include procedures for protecting information from disclosure, procedures for accessing information, particularly in exceptional circumstances, provision for security systems to protect the information stored in any form and mechanisms to ensure accountability and liability of persons in the institution.

Prohibition
on
publication.

16. No person shall print, publish, broadcast or in any manner release HIV-related information or private information of a person without the informed consent in writing of such person.

CHAPTER V

ACCESS TO TESTING, TREATMENT AND COUNSELLING

Right to
Health.

17. (1) Every person shall have the right to enjoy the highest attainable standard of physical and mental health.

(2) The State shall respect, protect and fulfil the right to the highest attainable standard of physical and mental health of all persons.

(3) Without prejudice to the generality, of sub-sections (1) and (2), the State shall, based on principles of availability, accessibility and acceptability, provide,—

(a) free of cost HIV-related prevention, care and support facilities, goods, measures, services and information, including centres providing voluntary testing and counselling services in every sub-district in accordance with the Regulations; and

(b) free of cost treatment for HIV/AIDS for all persons.

Explanation.—For the purposes of this Chapter 'treatment' includes health facilities, goods, measures, services and information for the curative and palliative care of HIV/AIDS and related opportunistic infections and conditions including,—

(i) counselling;

(ii) the effective and monitored use of medicines for opportunistic infections;

(iii) post exposure prophylaxis;

(iv) anti-retroviral therapy;

(v) nutritional supplements;

(vi) measures for the prevention of mother-to-child transmission;

(vii) infant milk substitutes; and

(viii) other safe and effective medicines, diagnostics and related technologies.

(4) To fulfil its obligations under this Chapter, the State shall, *inter alia*, ensure that continuous and sustainable access to HIV-related prevention and treatment is not hampered or impeded by procedural or other requirements and shall ensure that the process whereby its obligations are fulfilled is transparent and accountable and is evaluated on a regular basis.

(5) The appropriate Government shall within one hundred and eighty days of the coming into force of this Act, ensure the availability of medical infrastructure, including diagnostic technologies, required for the prevention and treatment of HIV/AIDS within its jurisdiction.

18. The National HIV/AIDS Authority shall, within one hundred and eighty days of its constitution and establishment, notify guidelines for HIV/AIDS related testing and HIV-related treatment that shall be applicable to all persons through a consultative process and ensure the wide dissemination of the same.

Protocols for HIV-related treatment.

19. The appropriate Government shall take effective legislative, administrative and fiscal measures including,—

Measures to be taken by State.

(a) ensuring the use of all options to promote access to healthcare including provision of travel subsidies for HIV-positive persons to facilitate access to treatment;

(b) the training and capacity building of healthcare providers and public health authorities, in consultation with HIV-positive persons and other protected persons, for the provision, prescription and monitoring of HIV-related treatment and prevention;

(c) ensuring that all other laws are in consonance with the provisions of this Chapter and in particular that the right to health is not in any manner restricted or compromised on account of the protection of intellectual property rights;

(d) introducing tax incentives and exemptions on HIV-related treatment in order to promote its affordability, accessibility and availability;

(e) ensuring that the pricing of medication, diagnostics and related technologies pursuant to any statute, regulation or order is fixed in a manner that is transparent, accountable and open to public scrutiny and that promotes its affordability, accessibility and availability;

(f) ensuring that incentives to encourage investment in research and development are provided to entities, particularly those run by the State to develop, manufacture, market and distribute affordable and accessible preventive, curative and palliative care and treatment.

CHAPTER VI

SAFE WORKING ENVIRONMENT

20. (1) Every person shall have the right to safe working environment.

Right to Safe Working Environment.

(2) Every institution providing healthcare services and every institution where there is a significant risk of occupational exposure to HIV, shall provide free of cost,—

(a) universal precautions to all persons working or present in such institution who may be occupationally exposed to HIV, including employees, interns, attendants and contract workers, and appropriate training for the use of such universal precautions; and

(b) post exposure prophylaxis to all persons working in such institution who may be occupationally exposed to HIV/AIDS, including employees, interns, and contract workers, with appropriate counselling services.

(3) Every institution referred to in sub-section (2) comprising twenty or more persons shall provide HIV-related treatment and compensation to persons working in such institution who are occupationally exposed to and acquire HIV.

(4) Every institution referred to in this Chapter, shall within sixty days of the commencement of this Act,—

(a) ensure that the universal precautions and Post Exposure Prophylaxis protocols in accordance with the Regulations are complied with in the institution and inform all persons working in the institution of the details of availability of universal precautions and post exposure prophylaxis in the institution and shall make special efforts to ensure that lower cadre workers in such institutions are trained in using and can access universal precautions; and

(b) where applicable, notify and widely disseminate a treatment and compensation policy in accordance with the regulations specifying the procedure for persons to claim treatment or compensation or both as provided in sub-section (3) including the medical records, tests and incident reports required to make the claim:

Provided that such policy shall not specify mandatory HIV testing including pre-employment testing as a requirement for claiming treatment or compensation:

Provided further that any person claiming occupational exposure to HIV, in an institution that does not comply with sub-section (4)(a) and (b), shall be presumed to have been occupationally exposed to HIV and shall be entitled to treatment and compensation without any requirement of further proof.

(5) Every healthcare provider and every other person who may be occupationally exposed to or may occupationally transmit HIV shall use universal precautions in accordance with the regulations in the course of their work.

(6) Every healthcare provider and every institution providing healthcare services shall ensure basic cleanliness and hygiene and the implementation of infection control measures in accordance with the regulations and any other law for the time being in force.

(7) The National HIV/AIDS Authority shall within ninety days of its constitution and establishment notify protocol for universal precautions and post exposure prophylaxis that shall be applicable to all persons.

CHAPTER VII

PROMOTION OF STRATEGIES FOR REDUCTION OF RISK

Strategies for
Reduction of
Risk.

21. (1) Notwithstanding anything contained in any law for the time being in force,—

(a) the implementation or use of any strategy for reducing the risk of HIV transmission; or

(b) the provision or possession of any tool or paraphernalia for reduction of risk of HIV transmission, or any act pursuant thereto, shall not, in any manner, be prohibited, impeded, restricted or prevented and shall not amount to a criminal offence or attract civil liability.

Explanation.—Strategies for reducing risk of HIV transmission means promoting actions or practices that minimise a person's risk of exposure to HIV or mitigate the adverse impacts related to HIV/AIDS including,—

(i) the provision of information, education and counselling services relating to HIV prevention and safe practices;

(ii) the provision and use of safer sex tools, including condoms, lubricants, female-controlled barrier methods, and safety drug use paraphernalia, including clean needles, syringes, bleach and other appropriate sterilising equipment accompanied by information on their use;

(iii) drug substitution, drug maintenance and needle and syringe exchange programmes in accordance with sub-section 2; and

(iv) the provision of any strategy for reducing risk of HIV transmission including those contained in sub-sections (i), (ii) and (iii) above to person below the age of eighteen years who in the opinion of the provider of strategies for reducing risk of HIV transmission have the capacity to consent to such strategy.

Illustrations

(a) A, supplies condoms to B, a sex worker or to C, a client of B. Neither A, nor B, nor C can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the strategy.

(b) M, an intervention project on HIV/AIDS and sexual health information, education and counselling for men who have sex with men provides safer sex information, material and condoms to N, a man who has sex with other men. Neither M nor N can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the interventions.

(c) X, an intervention providing registered needle exchange programme services to injecting drug users, supplies a clean needle to Y, an injecting drug user who exchanges the same for a used needle. Neither X nor Y can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the intervention.

(d) R, an intervention programme for children living on the streets and K, a counsellor in a school, provide sexual health and safer sex information, education and counselling, material and small-sized condoms to S, a child living on the street and L, a student in school, respectively. Neither R, S, K nor L can be held criminally or civilly liable for such actions or be prohibited, impeded, restricted or prevented from implementing or using the intervention.

(2) No person shall implement a drug substitution or drug maintenance or needle and syringe exchange programme unless such programme is implemented in accordance with the regulations.

(3) Any information obtained or maintained in records by a person implementing a drug substitution or drug maintenance or needle and syringe exchange programme or any other strategy for the reduction of risk of HIV transmission shall be considered to be private information for the purpose of Chapter IV of this Act.

(4) (a) No public servant, including a law enforcement official shall arrest or detain, or in any manner harass, impede, restrict or otherwise prevent any person implementing or using strategies for reduction of risk of HIV transmission in accordance with the provisions of this Act.

(b) A public servant who violates the provisions of clause (a) of sub-section (4) shall be subject to misconduct proceedings under the relevant Act including the relevant Police Act and the report of such misconduct shall form part of the confidential records of such public servant.

CHAPTER VIII

SOCIAL SECURITY

22. (1) The appropriate Government shall, by notification within three hundred and sixty days of the commencement of this Act, formulate, frame and implement health insurance and social security schemes including *inter alia*,—

Social
security
scheme.

(a) schemes that address HIV/AIDS and related illnesses and mitigate the social and economic impact of HIV/AIDS and related illnesses;

(b) schemes that cover HIV-positive persons, other protected persons, women, children, healthcare providers and older persons;

(c) a scheme that provides for access to shelter, food, education and treatment for children affected by HIV/AIDS;

(d) a scheme that provides cash for HIV-positive women with children; and

(e) a contributory insurance scheme between the appropriate Government, healthcare institutions and healthcare providers.

CHAPTER IX

INFORMATION, EDUCATION AND COMMUNICATION

Right to
Information.

23. (1) Every person shall have the right to information and education relating to health and the protection of health from the State.

(2) No person shall be denied access to and availability of HIV/AIDS-related IEC, including information relating to sexual health, sexuality and safe drug use, by the State:

Provided that where the person is below the age of twelve years and, in the opinion of the provider of information, is incapable of understanding and appreciating the nature of the HIV/AIDS-related IEC, the provider may, in the best interests of the person, require the presence of a person above the age of sixteen years of the person's choice before providing such information.

Duty of State
to promote
HIV/AIDS-
related IEC.

24. (1) The State, based on evidence or scientific information, and in a manner that does not promote gender and sexual stereotypes and is age-appropriate, gender-sensitive, non-stigmatising, non-discriminatory and promotes gender equality, shall in accordance with sub-section (3),—

(a) formulate, institute and implement sustained multi-lingual, easily understood, and regularly updated national, State and local HIV/AIDS-related IEC programmes, which are accessible and available to all persons;

(b) develop and conduct a multi-lingual national programme of public education and information to promote an understanding and acceptance of this Act; and

(c) ensure community mobilisation and participation, in the provision of HIV/AIDS-related IEC at all levels throughout the country.

(2) Without prejudice to the generality of sub-section (1), the State shall ensure,—

(a) that women of all ages shall have access to accurate and comprehensive HIV/AIDS-related IEC focussing on their needs;

(b) that every person below the age of eighteen years has access to adequate and accurate HIV/AIDS-related IEC including sexual health information and education;

(c) that HIV/AIDS-related IEC is designed and developed for and readily accessible to and usable by all persons with disabilities;

(d) that in relation to education,

(i) a continuing HIV/AIDS-related IEC programme is implemented in all formal and non-formal educational settings for all learners, students, educators and other staff members;

(ii) age-appropriate HIV/AIDS-related IEC forms part of, and is integrated into, all aspects of the curriculum for all learners and students, including information on HIV/AIDS, stigma and discrimination related to HIV/AIDS, modes of transmission, prevention, care, support and treatment available for HIV;

(iii) all boards of education, authorities of education and all persons responsible for setting curricula shall, for the academic year following the commencement of this Act, formulate and institute curriculum, for HIV/AIDS education including in all curricula related to medical, health, State service, legal, teaching and social work education, for the following academic year;

(iv) the proper and ongoing training of all educators in relation to HIV/AIDS-related IEC and its dissemination takes place;

(e) that all persons in institutions not covered under Chapter XII receive minimum information and instruction of HIV/AIDS, particularly relating to discrimination and disclosure of information in the workplace and shall take proactive steps to impart HIV/AIDS-related IEC to such persons;

(f) that the Armed Forces, paramilitary forces, law enforcement and drug enforcement agencies provide all personnel with HIV/AIDS-related IEC particularly in relation to prevention, discrimination and disclosure of information;

(g) that every HIV/AIDS-related prophylactic including condoms offered for sale, sold or supplied in any other manner to any person shall be accompanied by information, including pictorial representations and literature on the proper use of the prophylactic device or agent, its efficiency against HIV and sexually transmitted infections, and the importance of adopting safer sexual practices, in English and the local language of the region where the prophylactic is supplied;

(h) that HIV/AIDS-related IEC is adequately provided at places of entertainment and travel points including train stations, bus stations, international ports of entry and exit, domestic airports, and other travel centres;

(i) that HIV/AIDS-related IEC is provided in all State institutions, including in care and custodial settings; and

(j) that all HIV/AIDS-related IEC is widely disseminated through all forms of media including print, electronic, mass and digital media.

(3) For the purposes of this section, the State shall hold ongoing and sustained consultations with different stakeholders including HIV-positive persons, protected persons, women's groups, persons working in the field of HIV/AIDS, public health experts, children's groups, and parents and guardians of learners.

25. (1) HIV/AIDS related information dissemination shall form part of the delivery of health services by healthcare providers.

HIV/AIDS
information
as a health
service.

(2) It shall be the duty of every healthcare provider to make available to the public, subject to the provisions of this Act, such information as is necessary in the prevention, care, support and treatment of HIV/AIDS.

(3) Every healthcare institution shall enhance the knowledge and capacity of all healthcare providers working in or employed by it, to include skills for proper information dissemination and education on HIV/AIDS and the training of healthcare providers shall include discussions on HIV-related issues such as discrimination, confidentiality, informed consent and the duty to provide treatment.

CHAPTER X

APPOINTMENT OF HEALTH OMBUDS

26. (1) The appropriate Government shall, within ninety days of the commencement of this Act, appoint by notification in the Official Gazette, one or more Health Ombuds for each district to exercise the powers conferred upon and perform the functions assigned, under this Act.

Appointment
of Health
Ombuds.

(2) The appropriate Government may appoint as Health Ombud, any person who has working experience or extensive knowledge of public health or healthcare delivery systems, is independent, and sensitive to issues addressed in this Act, including a healthcare provider or a person working in a non-governmental organisation.

(3) A person appointed as Health Ombud under sub-section (1) shall,—

(a) when appointed for a Union territory, be conferred the rank of the Joint Director of Health and Family Welfare; and

(b) when appointed for a district of the State, be conferred the rank of the Officer responsible for Health for such district.

(4) The Health Ombud shall within seven days of being appointed, undergo training on HIV/AIDS and this Act in accordance with the regulations.

(5) The appropriate Government shall within thirty days of the commencement of this Act launch a website or web page on the Internet dedicated to the offices of each Health Ombud appointed by it, which shall provide *inter alia* information relating to the functioning of the office of the Health Ombud, the procedure for filing and sending complaints, the number, nature of complaints received, and decisions and directions given by the Health Ombud:

Provided that the provision of the information on the website shall ensure the maintenance of the confidentiality of complainants and other parties to the complaints.

Tenure of
office of
Health
Ombud.

27. (1) The Health Ombud shall hold office for a term of three years from the date on which such person enters office and shall be eligible for reappointment.

(2) The Health Ombud may relinquish office by giving written notice of not less than three months to the appropriate Government.

(3) The appropriate Government may remove a Health Ombud from office who:—

(a) is, or at any time has been, adjudged as insolvent;

(b) has become physically or mentally incapable of acting as the Health Ombud;

(c) has been convicted of any offence or has acquired such financial or other interest which is in the opinion of the appropriate Government likely to prejudicially affect such person's functions as the Health Ombud; or

(d) has so abused the position as to render continuation in office detrimental to the public interest:

Provided that a Health Ombud shall not be removed from office without being given a reasonable opportunity of being heard in the matter.

Salary and
Allowances
of Health
Ombud.

28. The salary and allowances payable to, and other terms and conditions of service of, the Health Ombud shall be such as may be prescribed:

Provided that such salary, allowances and other conditions of service shall not be varied to the disadvantage of the Health Ombud after appointment.

Functions of
Health
Ombud.

29. (1) The Health Ombud, may *suo motu* and shall, on a complaint by any person, inquire, at the request of the appropriate Government or its agencies or order of any court, into violations of the provisions of this Act by any person in relation to the provision of healthcare services in such Health Ombud's jurisdiction.

(2) The Health Ombud shall inquire into and decide a complaint promptly and in any case within fifteen working days:

Provided that in cases of emergency, the Health Ombud shall decide the complaint within one day:

Provided further that in case the complaint is not decided within the time period specified above, the proceedings before the Health Ombud shall not lapse and the Health Ombud shall record in writing reasons for the delay and provide copies of the same to both parties.

(3) The Health Ombud shall inquire into instances or complaints of the manufacture, marketing, distribution, provision, prescription and sale of any licensed or unlicensed substance, service or therapy, or any advertisement or article or any broadcast or telecast falsely claiming to cure, prevent or alleviate medical conditions associated with HIV/AIDS

and based on such inquiry may file a complaint with the concerned authority including law enforcement authorities or initiate legal proceedings, and shall report the findings of the inquiry, along with recommendations, if any, with the appropriate Government and the concerned authority, if any, for action.

30. (1) The Health Ombud shall follow such procedure as may be prescribed:

Powers and
Procedure.

Provided that all stages of such procedure shall be readily accessible to and usable by all persons including persons with disabilities and illiterate persons.

(2) The Health Ombud may receive complaints *via* post, telephonically or *via* the Internet or in any other manner as may be prescribed.

(3) The Health Ombud may decide the complaint based on representations of the parties to the complaint or may require a hearing of the parties to the complaint.

5 of 1908.

(4) The Health Ombud shall, while inquiring into complaints under this Act, have all the powers of a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter, which may be prescribed.

45 of 1860.

(5) The Health Ombud shall have the power to require any person, to furnish information on such points or matters as, in the opinion of the Health Ombud, may be useful for, or relevant to, the subject matter of an inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of sections 176 and 177 of the Indian Penal Code, 1860.

1 of 1974.

(6) The Health Ombud or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Health Ombud may enter any building or place where the Health Ombud has reason to believe that any document relating to the subject matter of an inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

(7) The Health Ombud shall maintain records in such manner as may be prescribed.

45 of 1860.

(8) The Health Ombud shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

(9) The Health Ombud may appoint such number of persons as may be necessary to assist in the functioning of the Health Ombud office including in relation to the inquiry of a complaint under sub-sections (1) and (3) of section 29.

(10) The Central Government shall prescribe rules for the purposes of this Chapter within sixty days of the commencement of the Act.

31. (1) The Health Ombud shall, in order to rectify the breach or withdraw the violation complained of under this Act, have the power to—

Findings and
orders.

(a) pass orders, in cases of emergency without considering the representations of the parties to the complaints or without hearing them as the case may be, including directing admissions, operations or treatment and the provision of universal precautions:

Provided that the Health Ombud shall, as soon as may be, after the passing of such orders, consider the representations of the parties or give them an opportunity to be heard as the case may be, and pass appropriate orders;

(b) pass orders for the withdrawal and rectification of the violation complained of;

(c) pass orders directing the person who has committed the violation to undergo a fixed period of counselling related to the violation committed and a fixed period of social service;

(d) direct specific steps or special measures or both to be taken; and

(e) direct any person who has committed the violation to make regular reports to the Health Ombud regarding implementation of the Health Ombud's order.

(2) The Health Ombud shall pass orders that contain brief reasons for the passing of such orders.

(3) The Health Ombud, may, subject to any rules made in this behalf, make such orders he may consider reasonable.

(4) An order of the Health Ombud shall be binding on the parties to the complaint.

Civil
Authorities
to carry out
Health
Ombud
Orders.
Consequences
of breach of
Health
Ombud
Orders.

32. All authorities including civil authorities functioning within the jurisdiction of the Health Ombud shall be bound by the orders of the Health Ombud and shall assist in their execution.

33. (1) All orders passed by the Health Ombud under section 31 shall be deemed to be orders under Order 39 Rule 1 of the Code of Civil Procedure, 1908 and the breach of such an order shall be dealt with by applications to the Health Ombud which shall be treated as an application under Order 39 Rule 2A of the Code Civil Procedure, 1908.

5 of 1908.

5 of 1908.

(2) For the purposes of this Chapter "Court" in Order 39 of the Code of Civil Procedure, 1908 shall include the Health Ombud.

5 of 1908.

Report to
Government.

34. The Health Ombud shall, every six months, report to the appropriate Government, the number and nature of complaints received, the action taken and orders passed in relation to such complaints and a copy of such report shall be forwarded to the National HIV/AIDS Authority and the concerned HIV/AIDS Authority.

Right of
Redressal.

35. Nothing contained in this Chapter prohibits, limits or otherwise restricts the right of a person to other remedies provided under this Act or any other law for the time being in force to address violations of the provisions of this Act.

CHAPTER XI

HIV/AIDS AUTHORITY

Constitution
of HIV/AIDS
Authorities.

36. (1) The Central Government shall for the whole country, on the appointed date, constitute and establish, in accordance with the provisions of this Act, a body to be known as the National HIV/AIDS Authority to exercise the powers conferred upon and perform the functions assigned to it, under this Act.

(2) The appropriate Government for each Union territory and for each State, shall, on the commencement of this Act, constitute and establish, in accordance with the provisions of this Act, a State or Union territory HIV/AIDS Authority as the case may be, under such name as may be specified in the notification to exercise the powers conferred upon, and perform the functions assigned to it, under this Act.

(3) The appropriate Government for each district in a Union territory and the State Government for each district in a State shall where a District AIDS Control Society exists,

and may for other districts, constitute and establish, in accordance with the provisions of this Act a body to be known as the District HIV/AIDS Authority under such name as may be specified in the notification, to exercise the powers conferred upon and perform the functions assigned to it, under this Act.

Explanation.—For the purposes of this Chapter, the appointed date shall be such date, being a date not later than six months of the commencement of this Act, as the appropriate Government may by notification appoint for the constitution and establishment of the concerned HIV/AIDS Authority.

37. The HIV/AIDS Authority shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose off property and to contract, and may, by the aforesaid name, sue or be sued.

HIV/AIDS Authority to be body corporate.

38. (1) The head office of the National HIV/AIDS Authority shall be at Delhi and the National HIV/AIDS Authority may establish offices at such other places in India.

Office of HIV/AIDS Authority.

(2) The head office of State, Union territory and District HIV/AIDS Authorities shall be at the State capital, Union territory capital and District headquarters respectively and such HIV/AIDS Authorities may establish offices at other places in their jurisdiction as may be deemed necessary.

39. (1) The National HIV/AIDS Authority shall comprise—

Composition of HIV/AIDS Authorities.

(a) a full-time Director, being a person with special knowledge or practical experience in matters relating to HIV/AIDS, to be nominated by the Nomination Committee concerned;

(b) five full-time members to be nominated by the Central Government;

(c) one person each from the Northern, Southern, Eastern, Western and North-Eastern State and Union territory HIV/AIDS Authorities to be nominated by the Central Government on an annual rotating basis;

(d) a full-time member being an HIV-positive person to be nominated by the Nomination Committee concerned;

(e) five persons to be nominated by the Central Government in accordance with section 42, to represent HIV-positive persons, other protected persons, healthcare providers, women, non-governmental organisations working in the field of HIV/AIDS or any other interest which, in the opinion of the Central Government, ought to be represented;

(f) a full-time member-HIV/AIDS expert, being a person having special knowledge or practical experience in respect of matters relating to public health, human rights and HIV/AIDS, nominated by the Central Government in accordance with section 42;

(g) a full-time member-secretary, possessing qualifications, knowledge and experience of various aspects of HIV/AIDS, to be made available by the Central Government.

Explanation.—For the purposes of this sub-section, Northern States are Jammu and Kashmir, Punjab, Haryana, Chandigarh, Delhi, Rajasthan, Uttar Pradesh, Uttarakhand and Himachal Pradesh, Western States are Maharashtra, Gujarat, Madhya Pradesh, Daman and Diu, Lakshadweep and Dadra and Nagar Haveli, Eastern States are West Bengal, Odisha, Bihar, Chhattisgarh, Jharkhand, Sikkim and Andaman and Nicobar Islands, Southern States are Karnataka, Goa, Tamil Nadu, Kerala, Pondicherry and Andhra Pradesh and North-Eastern States are Manipur, Assam, Meghalaya, Mizoram, Nagaland, Tripura and Arunachal Pradesh.

(2) A State or Union territory HIV/AIDS Authority shall comprise —

(a) a full-time Director, being a person having special knowledge or practical experience in respect of matters relating to HIV/AIDS or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the concerned State or Union territory Nomination Committee;

(b) five full-time members to be nominated by the appropriate Government;

(c) five members, to be nominated by the appropriate Government from amongst members of local authorities functioning within the State or Union territory, as the case may be;

(d) a full-time member being an HIV-positive person to be nominated by the concerned Nomination Committee;

(e) five persons to be nominated by the appropriate Government in accordance with section 42, to represent HIV-positive persons, other protected persons, healthcare providers, women, non-governmental organisations working in the field of HIV/AIDS or any other interest which, in the opinion of the appropriate Government, ought to be represented;

(f) a full-time member-HIV/AIDS expert, being a person having special knowledge or practical experience in respect of matters relating to public health, human rights and HIV to be nominated by the appropriate Government in accordance with section 42;

(g) a full-time member-secretary, possessing qualifications, knowledge and experience of various aspects of HIV/AIDS, to be made available by the appropriate Government.

(3) A District HIV/AIDS Authority shall comprise—

(a) a full-time Director, being a person having special knowledge or practical experience in respect of matters relating to HIV/AIDS or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Nomination Committee concerned;

(b) three full-time members to be nominated by the appropriate Government;

(c) two members, to be nominated by the appropriate Government from amongst the members of local authorities functioning within the District;

(d) a full-time member being an HIV-positive person to be nominated by the concerned Nomination Committee;

(e) three persons to be nominated by the appropriate Government in accordance with section 42, to represent HIV-positive persons, other protected persons, healthcare providers, women, non-governmental organisations working in the field of HIV/AIDS in that District or any other interest which, in the opinion of the appropriate Government, ought to be represented;

(f) a full-time member-HIV/AIDS expert, being a person having special knowledge or practical experience in respect of matters relating to public health, human rights and HIV to be nominated by the appropriate Government in accordance with section 42;

(g) a full-time member-secretary, possessing qualifications, knowledge and experience of various aspects of HIV/AIDS, to be made available by the appropriate Government.

Nomination
Committee.

40. (1) The Central, State and Union territory Nomination Committees shall, on the appointed date, and subsequently to fill vacancies in the concerned HIV/AIDS Authority, meet to consider, determine and nominate such persons, as they are required, under section 39, to appoint.

(2) The Central Nomination Committee shall comprise the Prime Minister, the Minister for Health and Family Welfare, the leaders of the opposition in the House of the people and the Council of States, the Chairperson of the National Human Rights Commission and an HIV-positive person appointed by the Central Government in accordance with section 42.

(3) The State Nomination Committee shall comprise the Chief Minister, the Minister in charge of Health in the State, the leaders of the Opposition in the State Legislative Assembly and State Legislative Council, in cases where both Houses exist, the Chairperson of the State Human Rights Commission or where no State Human Rights Commission exists, an expert in public health, HIV/AIDS or human rights as appointed by the State Government in accordance with section 42 and an HIV-positive person appointed by the State Government in accordance with section 42.

(4) (a) The Union territory Nomination Committee shall, where the Union territory has its own legislature, comprise the Chief Minister, the Minister in charge of Health in the Union territory, the leaders of the Opposition in the Union territory Legislative Assembly an expert in public health, HIV/AIDS or human rights as appointed by the Union territory Government in accordance with section 42 and an HIV-positive person appointed by the Union territory Government in accordance with section 42.

(b) The Union territory Nomination Committee shall, where the Union territory has no legislature, be represented by the Central Nomination Committee under sub-section (2).

(5) No appointment by a Nomination Committee shall be invalid merely by reason of any vacancy in such Nomination Committee.

41. (1) The National HIV/AIDS Authority shall be advised by an Advisory Committee on matters relating to the enforcement of this Act, the protection and promotion of rights of protected person, the care, support and treatment of persons living with HIV/AIDS and the prevention and control of HIV/AIDS.

Advisory
Committee.

(2) The Advisory Committee shall comprise:—

(a) the Central Nomination Committee; and

(b) the following persons to be appointed by the Central Government for a period of two years with eligibility for re-appointment in accordance with section 42,—

(i) two representatives from non-governmental organisations working in the fields of HIV/AIDS or public health;

(ii) a representative of the Indian Council of Medical Research;

(iii) a representative of healthcare providers;

(iv) a representative of HIV-positive persons;

(v) a representative of protected persons;

(vi) a representative of women;

(vii) a representative of children;

(viii) a human rights activist;

(ix) an epidemiologist; and

(x) a public health expert.

(3) The Advisory Committee shall meet once a year.

Appointments to HIV/AIDS Authority and Nomination Committee by appropriate Government.

42. (1) For any appointment to be made by an appropriate Government under sections 39, 40 and 41, such appropriate Government shall, in the case of a member being appointed upon the constitution of an HIV/AIDS Authority or a Nomination Committee or the Advisory Committee and subsequently on the completion of tenure by a member, thirty days prior to the date upon which a member is to be appointed, call for nominations from all persons for the post through widespread advertisements including through national and local newspapers and the internet.

(2) In cases where the need for appointing a member arises due to factors other than the constitution of an HIV/AIDS Authority or a Nomination Committee or the Advisory Committee or the completion of tenure, the appropriate Government shall commence the process of appointment as specified in sub section (1) immediately upon such vacancy arising and shall make the final decision as to appointment within thirty days.

(3) In the appointment of any member of an HIV/AIDS Authority, a Nomination Committee or the Advisory Committee, the appropriate Government shall take into consideration the track record of the persons nominated for the post in the field of HIV/AIDS and health and their experience in their respective fields.

(4) The appropriate Government shall make the process of any appointment public immediately upon the person's appointment, including through the internet, and in publicising such appointment shall include the name of the person appointed, their track record and experience and any other factors that were relevant in the appointment.

Tenure of office of Director and other members.

43. (1) The Director and every other member of an HIV/AIDS Authority shall hold office for a term of five years from the date on which such person enters office and shall be eligible for reappointment.

(2) A member may relinquish office by giving written notice to the appropriate Government of not less than three months.

(3) The appropriate Government may remove from office any member who—

(a) is, or at any time has been, adjudged as insolvent;

(b) has become physically or mentally incapable of acting as a member of the HIV/AIDS Authority;

(c) has been convicted of any offence or has acquired such financial or other interest which is in the opinion of the appropriate Government likely to affect prejudicially such person's functions as a member of the HIV/AIDS Authority; or

(d) has so abused the position as to render continuation in office detrimental to the public interest: Provided that a member shall not be removed from office without being given a reasonable opportunity of being heard in the matter.

Salary and allowances of Director and members.

44. The salary and allowances payable to, and other terms and conditions of service of, the Director and members shall be such as may be prescribed:

Provided that such salary, allowances and other conditions of service shall not be varied to the disadvantage of the members after appointment.

Meetings of the HIV/AIDS Authority.

45. (1) The HIV/AIDS Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Director shall preside at the meetings of the HIV/AIDS Authority.

(3) If for any reason the Director is unable to attend any meeting of the HIV/AIDS Authority, any member of the HIV/AIDS Authority chosen by the members present shall preside at the meeting.

(4) All questions which come before any meeting of the HIV/AIDS Authority shall be decided by a majority of votes of the members of the HIV/AIDS Authority present and

voting and in the event of equality of votes, the Director of the HIV/AIDS Authority or the person presiding at the meeting shall have, and exercise, a second or casting vote.

(5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at a meeting shall disclose the nature of such concern or interest, pecuniary or otherwise, and after such disclosure, such member shall not attend that item of the meeting.

(6) No act or proceeding of the HIV/AIDS Authority shall be invalid merely by reason of,—

(a) any vacancy in, or defect in the constitution of, the HIV/AIDS Authority; or

(b) any defect in the appointment of a person acting as the Director or a member of the HIV/AIDS Authority; or

(c) any irregularity in the procedure of the HIV/AIDS Authority not affecting the merits of the act or proceeding.

46. (1) An HIV/AIDS Authority may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

Committees.

(2) Persons appointed as members of a committee under sub-section (1) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be prescribed.

47. Subject to such control and restriction as may be prescribed, the HIV/AIDS Authority may appoint such officers and other employees as may be necessary for the efficient performance of its functions and the method of appointment, the salary and allowances and other conditions of service of such other officers and employees of the HIV/AIDS Authority shall be such as may be prescribed.

Officers and other employees of the HIV/AIDS Authority.

48. The Director shall be the Chief Executive of the HIV/AIDS Authority and shall exercise such powers and perform such duties as may be prescribed.

Director to be Chief Executive.

49. (1) On the appointed date, the undertakings in relation to the National AIDS Control Organisation, a State AIDS Control Society and where a District AIDS Control Society exists, of that District AIDS Control Society, shall stand transferred to the National HIV/AIDS Authority, the concerned State HIV/AIDS Authority or the concerned District HIV/AIDS Authority, as the case may be.

Transfer of Undertakings, etc.

(2) The undertaking of the National AIDS Control Organisation, the concerned State AIDS Control Society or the concerned District AIDS Control Society, which is transferred to, and which vests in the National HIV/AIDS Authority, the State HIV/AIDS Authority or the District HIV/AIDS Authority as the case may be, shall be deemed to include all assets, rights, powers, authorities and privileges and all properties, movable and immovable, real or personal, corporeal or incorporeal, in possession or reservation, present or contingent, of whatever nature and wheresoever situate, including lands, works, cash balances, capital reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed date in the ownership, possession or power of the National AIDS Control Organisation, the concerned State AIDS Control Society or the concerned District AIDS Control Society as the case may be, in relation to its undertakings, whether within or outside India, all books of account and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the National AIDS Control Organisation or the concerned State AIDS Control Society or concerned District AIDS Control Society, as the case may be, in relation to its undertakings.

(3) All contracts and working arrangements subsisting immediately before the appointed date and affecting the National AIDS Control Organisation, the State AIDS Control Society or the District AIDS Control Society, as the case may be, shall, in so far as they

relate to their undertakings, cease to have effect or to be enforceable against the National AIDS Control Organisation, the State AIDS Control Society or the District AIDS Control Society, as the case may be, and shall be of as full force and effect against or in favour of the HIV/AIDS Authority in which the undertaking has vested by virtue of this Act and enforceable as fully and effectually as if instead of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society as the case may be, the concerned HIV/AIDS Authority had been named therein or had been a party thereto.

(4) Any proceeding or cause of action pending or existing immediately before the appointed date by or against or in relation to the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, in relation to its undertaking may, as from that day, be continued and enforced by or against the HIV/AIDS Authority in which it has vested by virtue of this Act, as it might have been enforced by or against the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, if this Act had not been passed, and shall cease to be enforceable by or against the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be.

(5) With effect from the appointed date, all licenses, permits, quotas and exemptions granted to the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society as the case may be, or in connection with the affairs and business of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, under any law for the time being in force, shall be deemed to have been granted to the HIV/AIDS Authority in which the undertaking of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, has vested.

(6) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to or in relation to the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, under the Income Tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the HIV/AIDS authority in which the undertaking of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, has vested.

43 of 1961.

(7) Where any payment made by the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, is exempted from deduction of the tax at source under any provision of the Income Tax Act, 1961, the exemption from tax will continue to be available as if the provisions of the said Act made applicable to the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, were operative in relation to the HIV/AIDS Authority in which the undertaking of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, has been vested.

43 of 1961.

(8) The transfer and vesting of the undertaking or any part thereof in terms of this section shall not be construed as a transfer within the meaning of the Income Tax Act, 1961 for the purposes of capital gains.

43 of 1961.

(9) Any guarantee given for or in favour of or in relation to the National AIDS Control Organisation or State AIDS Control Society or District AIDS Control Society, as the case may be, with respect to any loan or lease finance shall continue to be operative in relation to the HIV/AIDS Authority in which the undertaking of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, has vested by virtue of this Act.

(10) Every officer or other employee of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, except the Director, or the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, serving in its employment immediately before the appointed date shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the HIV/AIDS Authority by virtue of this Act become, as from the appointed date an officer or other employee, as the case may be, of such HIV/AIDS Authority in which the undertaking has vested and shall hold office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as such officer would have held under the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, if its undertaking had not vested in the HIV/AIDS Authority and shall continue to do so as an officer or other employee, as the case may be, of the HIV/AIDS Authority or until the expiry of a period of six months from the appointed date if such officer or other employee does not opt to be the officer or other employee of the HIV/AIDS Authority, within such period.

(11) Where an officer or other employee of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, opts under sub-section (10) not to be in the employment or service of the concerned HIV/AIDS Authority in which the undertaking of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, has vested, such officer or other employee shall continue in the employment of the appropriate Government.

14 of 1947.

(12) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, to an HIV/AIDS Authority shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court or other authority.

(13) The officers and other employees who have retired before the appointed date from the service of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the HIV/AIDS Authority in which the undertaking of the National AIDS Control Organisation or the State AIDS Control Society has vested.

(14) The trusts of the Provident Fund or Group Insurance and Superannuation Scheme of the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the HIV/AIDS Authority as was being done prior to the appointed date in the National AIDS Control Organisation or the State AIDS Control Society or the District AIDS Control Society, as the case may be, and tax exemptions granted to such schemes shall continue to be applied to the concerned HIV/AIDS Authority.

50. (1) It shall be the function of the HIV/AIDS Authority to:—

- (a) prevent and control the spread of HIV;
- (b) promote and protect the rights of protected persons;
- (c) provide care, support and treatment to HIV-positive persons and those affected by HIV/AIDS;

Functions of
the HIV/
AIDS
Authority.

(d) reduce the vulnerability of individuals and communities to HIV/AIDS;

(e) promote awareness, information and education about HIV/AIDS; and

(f) alleviate the socio-economic and human impact of HIV/AIDS; in India or the State or the Union territory or the District, as the case may be, and to co-ordinate any such programmes undertaken by any other persons or authorities on behalf of the appropriate Government as may be necessary.

(2) The HIV/AIDS Authority may, for the purpose of discharging its duties or performing its functions under this Act enter into any memorandum or arrangement with any agency of any foreign country or any international organisation.

(3) In particular, and without prejudice to the generality of the sub-section (1), the National HIV/AIDS Authority for the whole or any part of India a State HIV/AIDS Authority for the whole or any part of the State, a Union territory HIV/AIDS Authority for the whole or any part of the Union territory, and a District HIV/AIDS Authority for the whole or any part of the District, shall—

(a) institute and implement HIV-related programmes including such programmes as are specified in Schedule II and plan and organise the training of persons, engaged or to be engaged, in HIV-related programmes and strengthen programme management capabilities of the appropriate Government, municipal corporations, panchayat institutions and non-governmental organisations participating in HIV-related programmes;

(b) inquire, *suo motu*, on the request of the appropriate Government or its agencies or any court or in the case of a State or Union territory HIV/AIDS Authority on the direction of the National HIV/AIDS Authority or in the case of a District HIV/AIDS Authority on the direction of the National, State or Union territory HIV/AIDS Authority or on a petition presented to it by any person, into complaints or instances of violation of the provisions of this Act or negligence in the prevention of such violation, by any person, wholly or partly in its jurisdiction, and shall submit the report of such inquiry to the appropriate Government with recommendations as to steps to be taken to remedy the violation and may institute legal proceedings as provided in sub-section (c);

(c) institute, or assist complainants in instituting, or intervene in legal proceedings, involving any allegation of violation of the provisions of this Act in any court or challenge any order of a court where the HIV/AIDS Authority is a party or conduct investigations and make recommendations as directed by the court;

(d) maintain, publish and widely disseminate a list of HIV-related services including care, support and treatment centres and homes, healthcare providers and healthcare institutions providing care and treatment for HIV/AIDS, help lines, testing facilities and legal assistance;

(e) advise and report to the appropriate Government, *suo motu* or when requested by it, on any matters concerning HIV/AIDS or arising in course of the performance of the HIV/AIDS Authority's functions, in particular related to persons below the age of eighteen years and protected persons, including,—

(i) a review of existing and proposed international and national laws and policies and recommendations on the effective implementation or amendment of the same;

(ii) a review of laws and policies affecting persons below the age of eighteen years and children affected by HIV/AIDS including the Juvenile Justice (Care and Protection) Act, 2000 and rules related to foster care and adoption;

56 of 2000.

(iii) recommendations on the need for new laws and policies;

(iv) a review of the factors that inhibit the enjoyment of rights of persons;
and

(v) recommendations for instituting programmes for sensitisation of law enforcement on matters related to this Act.

(f) assess and recommend the strengthening of national, State or local healthcare systems, as the case may be, including related to the improvement of access to healthcare, the primary healthcare system, integrating HIV/AIDS within existing health programmes, improving health education and recommending and assisting in the formulation and implementation of action plans by the appropriate Government to ensure the proper provision of healthcare through public healthcare institutions;

(g) promote, commission and finance research in relation to HIV/AIDS and maintain and update a database of all HIV/AIDS related research being conducted in its jurisdiction;

(h) carry out HIV/AIDS surveillance in accordance with the regulations;

(i) initiate and ensure ongoing interaction with international agencies and other countries to ensure that governmental responses to the HIV/AIDS epidemic will continue to make the best use of assistance, information and knowledge available from the international community;

(j) encourage the efforts of non-governmental organisations and institutions working in the field of HIV/AIDS, human rights and public health including through the provision of material and human resources and allocation of sufficient funding to support, sustain and enhance their capacity and services;

(k) promote the understanding, acceptance and public discussion of rights of protected persons and of the provisions of this Act;

(l) formulate three-year action plans for the carrying out of functions under this Act in consultation with different stakeholders including HIV-positive persons, protected persons, non-governmental organisations and healthcare providers; and

(m) do anything incidental or conducive to the performance of any of the preceding functions or for the purposes of this Act.

51. In addition to the functions set out in section 50, the National HIV/AIDS Authority shall,—

Additional
Functions of
National
HIV/AIDS
Authority.

(a) formulate and implement a National HIV/AIDS Policy which shall be reviewed, and amended if necessary, every three years after widespread consultation;

(b) establish a committee to examine the impact of HIV/AIDS on women, which shall *inter alia*—

(i) undertake a review of all laws, in particular personal laws;

(ii) determine the manner in, and extent to which such laws discriminate against women;

(iii) recommend the reform and repeal of such laws to the appropriate Government;

(iv) examine the role of women at home and in public life, their sexual, reproductive and economic rights, including their ability to negotiate safer sex and make reproductive choices;

(v) examine strategies to increase educational and economic opportunities for women, sensitise service deliverers on issues related to women, improve healthcare and social support services for women; and

(vi) examine the impact of religious and cultural traditions on women.

(c) in relation to State, Union territory and district HIV/AIDS Authorities—

(i) supervise their functioning;

(ii) provide technical assistance and guidance to carry out and sponsor investigations and research relating to HIV/AIDS;

(iii) co-ordinate their activities and resolve disputes among them; and

(iv) make budgetary allocations and monitor their use of funds and resources.

(d) formulate, circulate and implement a model national HIV/AIDS policy for the care, support and protection of children affected by HIV/AIDS in educational institutions;

(e) formulate, modify and publish guidelines, policies or standards including in relation to,—

(i) programmes specified in Schedule II;

(ii) HIV/AIDS surveillance and counselling;

(iii) establishment of Voluntary Counselling and Testing Centres;

(iv) registration and support of non-governmental organisations, the disbursement of monies for this purpose while ensuring that such non-governmental organisations adopt and follow good practices and ethical guidelines in the running and management of their affairs; and

(v) the avoidance of acts or practices that violate or breach the provisions of this Act.

Additional
Functions of
State and
Union
territory
HIV/AIDS
Authority.

52. In addition to the functions set out in section 50, State and Union territory HIV/AIDS Authorities shall within their jurisdictions—

(a) translate the National HIV/AIDS Policy and other guidelines issued by the National HIV/AIDS Authority into local and regional languages, ensure their widespread dissemination and monitor their implementation;

(b) report to the National HIV/AIDS Authority;

(c) in relation to District HIV/AIDS Authorities where such Authorities exist—

(i) supervise their functioning;

(ii) co-ordinate their activities and resolve disputes among them; and

(iii) delegate such of their functions at the District level as they see fit;

(d) establish HIV/AIDS helplines in partnership with NGOs, networks of HIV-positive persons or other stakeholders in each District in accordance with the Regulations;

(e) establish Voluntary Counselling and Testing Centres in accordance with section 17 in every sub-district and at their head offices;

(f) maintain a list of registered counsellors and Voluntary Counselling and Testing Centres which shall be available to the public free of cost;

(g) under directions and guidelines of and in coordination with the National HIV/AIDS Authority establish mechanisms for—

(i) the registration of Voluntary Counselling and Testing Centres and counsellors;

(ii) the training of counsellors;

(iii) the provision of HIV-related pre-marital information and counselling services; and

(iv) the setting up of shelter homes for women and children living with HIV/AIDS.

(h) co-ordinate with the National HIV/AIDS Authority and other State and Union territory HIV/AIDS Authorities for the purposes of this Act.

5 of 1908. **53.** (1) In proceedings and inquiries before an HIV/AIDS Authority, it shall have all the powers of a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

Power of
HIV/AIDS
Authority.

(a) summoning and enforcing the attendance of witnesses and examine them on oath;

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

45 of 1860. (2) The HIV/AIDS Authority shall have the power to require any person, to furnish information on such points or matters as, in its opinion, may be useful for, or relevant to, the subject matter of an inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code, 1860.

1 of 1974. (3) The HIV/AIDS Authority or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the HIV/AIDS Authority may enter any building or place where the HIV/AIDS Authority has reason to believe that any document relating to the subject matter of an inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

54. All orders and decisions of the HIV/AIDS Authority shall be authenticated by the signature of the Director or any other member authorised by the HIV/AIDS Authority in this behalf.

Authentication
of orders of
HIV/AIDS
Authority.

55. (1) The HIV/AIDS Authority shall, within one hundred and eighty days of its constitution and establishment, notify a voluntary, graded rating and compliance system for all organisations including companies, institutions and non-governmental organisations in its jurisdiction, which shall provide *inter alia*:

HIV/AIDS
Authority to
monitor
compliance
of Act.

(a) for the listing of organisations with the HIV/AIDS Authority;

(b) formats for reporting compliance with the provisions of this Act; and

(c) a public notification system for organisations who rate well on the compliance of this Act.

(2) Based on the rating and compliance system, the HIV/AIDS Authority shall, on an annual basis, rate organisations on their compliance with the provisions of this Act and shall report to the appropriate Government such organisations that rate well on compliance.

(3) Based on the report of the HIV/AIDS Authority under sub-section (2), the appropriate Government shall accord priority and preference to such organisations that rate well on compliance in relation to various matters including the granting of contracts, licences, funding and resource allocation.

(4) The HIV/AIDS Authority shall also report to the appropriate Government such organisations that have been convicted of offences or awarded adverse orders in terms of this Act or those which may have been given a poor rating as 'HIV unfriendly' in relation to various matters including the granting of contracts, licences, funding and resource allocation.

(5) The HIV/AIDS Authority shall publish for wide circulation its rating and compliance system, the names of organisations that perform well on the rating system and those that are given a poor rating as 'HIV unfriendly'.

HIV/AIDS
Authority to
Consult.

56. (1) The HIV/AIDS Authority shall—

(a) call upon such experts, from the fields of public health, human rights, law and HIV/AIDS or from any other discipline as it deems necessary to assist it in the conduct of an inquiry under clause (b) of sub-section (3);

(b) ensure, including through political and financial support, that consultation with all stakeholders including HIV-positive persons, protected persons, healthcare providers, persons working in the field of HIV/AIDS, public health experts and human rights organisations occurs in all phases of HIV/AIDS policy design, programme implementation and evaluation;

(c) establish formal and regular mechanisms to facilitate ongoing dialogue with and input from such community representatives into HIV-related Government policies and programmes including through regular reporting by community representatives to the various Government, parliamentary and judicial branches, joint workshops with community representatives on policy, planning and evaluation of State responses and through mechanisms for receiving written submissions from the community;

(d) ensure a greater involvement of HIV-positive persons, other protected persons, non-governmental organisations, women, children, civil society and healthcare providers in the formulation and implementation of HIV-related policies, including through an initiative to strengthen the capacity and co-ordination of networks of people living with HIV/AIDS and community based organisations; and

(e) work with different stakeholders for the purposes of the performance of its functions.

(2) All policies, programmes and guidelines formulated by the HIV/AIDS Authority shall be evidence-based, formulated in a transparent manner and through consultation as provided in sub-section (1) and shall be open to public scrutiny.

(3) The HIV/AIDS Authority shall continuously collect information on HIV/AIDS, human rights and health and use this information as a basis for policy and programme development and reform.

Duty to
publish
information.

57. (1) The HIV/AIDS Authority shall publish, including through the Internet, and make available to all persons, all reports and minutes of its meetings and the meetings of its Committees and where applicable those of the Advisory Committee and the concerned Nomination Committee, its policies, programmes, guidelines, standards, all data relating to care, support and treatment, budgetary allocations, statements of audit and accounts and reports of the Comptroller and Auditor-General of India related to its functioning.

(2) Every person shall have the right to information from the HIV/AIDS Authority and this information shall be subject to the maintenance of confidentiality in relation to protected persons.

Appropriate
Government
to consider
HIV/AIDS
Authority
reports.

58. The appropriate Government shall consider the reports and recommendations of the HIV/AIDS Authority, in particular in relation to review of laws and policies relating to women, and within three months of their submission, shall, together with its comments, views and the action it proposes to take in relation to such reports and recommendations, lay the same before the concerned legislature for their action and publish and make available the same to all persons.

59. (1) The appropriate Government may, after due appropriation made by Parliament or the concerned legislature as the case may be, by law in this behalf, make in each financial year such contributions to the HIV/AIDS Authority as it may think necessary to enable the HIV/AIDS Authority to perform its functions under this Act.

Budgetary provisions.

(2) Each HIV/AIDS Authority shall have its own fund, and all sums which may, from time to time, be paid to it by the appropriate Government, and in the case of the State, Union territory and District HIV/AIDS Authorities, by the National HIV/AIDS Authority and all other receipts by way of gifts, grants, donations, benefactions, fees or otherwise of that HIV/AIDS Authority shall be carried to the fund of the HIV/AIDS Authority and all payments by the HIV/AIDS Authority shall be made from there.

(3) The HIV/AIDS Authority may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the fund of that HIV/AIDS Authority.

(4) The HIV/AIDS Authority shall during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure, and copies thereof shall be forwarded to the appropriate Government and its supervising HIV/AIDS Authority.

60. (1) The HIV/AIDS Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the appropriate Government in consultation with the Comptroller and Auditor-General of India.

Accounts and Audit.

(2) The accounts of the HIV/AIDS Authority shall be audited by the Comptroller and Auditor-General of India every three years and any expenditure incurred in connection with such audit shall be payable by the HIV/AIDS Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India or any person appointed by the Comptroller and Auditor-General of India in connection with the audit of the accounts of the HIV/AIDS Authority under this Act shall have the same rights and privileges in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the HIV/AIDS Authority.

(4) The accounts of the HIV/AIDS Authority as certified by the Comptroller and Auditor-General or any other person appointed by the Comptroller and Auditor-General of India in this behalf, together with the audit report thereon shall be forwarded annually to the Appropriate Government by the HIV/AIDS Authority and the appropriate Government shall cause the audit report to be laid as soon as may be after it is received before the concerned legislature and shall publish the same for wide circulation.

CHAPTER XII

INSTITUTIONAL OBLIGATIONS

61. The provisions of this Chapter shall be applicable to all institutions comprising twenty or more persons.

Application.

62. Every person who is in charge of, or responsible to an institution for the conduct of the activities of such institution, or both, shall ensure compliance by such institution with the provisions of this Act on the commencement of this Act.

General Responsibility of Institutions.

63. (1) Every institution shall appoint a person of senior rank with full administrative powers, working full time in the institution, as the Complaints Officer, who shall, on a

Grievance Redressal Mechanism.

day-to-day basis, deal with complaints of violations of the provisions of this Act by or in the institution, in such manner as may be prescribed:

Provided that where an institution carries on its activity in one or more places with twenty or more persons in any of such additional places, a separate Complaints Officer shall be appointed for each of such places.

(2) Every person with a grievance about the violation of the provisions of this Act by or in an institution has the right to approach the Complaints Officer to attend to such grievance and shall be informed of such right by the institution.

(3) The Complaints Officer, may inquire *suo motu*, and shall inquire, upon a complaint made by any person, into violation of the provisions of this Act by the institution or any person in the institution.

(4) The Complaints Officer shall act in an objective and independent manner when inquiring into complaints made under this Chapter.

(5) The Complaints Officer shall inquire into and decide a complaint promptly and in any case within seven working days:

Provided that in cases of emergency the Complaints Officer shall decide the complaint within one day.

(6) The Complaints Officer, if satisfied, that a violation of the Act has taken place as alleged in the complaint, shall first direct the institution to take measures to rectify the breach or violation complained of, then counsel the person alleged to have committed the act and require such person to undergo training and social service, and upon subsequent violations shall recommend to the institution to, and the institution shall, initiate disciplinary action against such person.

(7) The Complaints Officer shall inform the complainant of the action taken in relation to the complaint and shall be responsible for ensuring that the complaints, their nature and number and the action taken are published on the institution's website or web page where such a website or web page exists and are reported to the concerned HIV/AIDS Authority on a six-monthly basis:

Provided that the Complaints Officer shall ensure the maintenance of confidentiality of complainants and parties to a complaint.

HIV/AIDS
policy.

64. (1) The National HIV/AIDS Authority shall within ninety days of its constitution and establishment, notify model HIV/AIDS policies for institutions formulated in consultation with different stakeholders including HIV-positive persons and persons working in the field of HIV/AIDS.

(2) The model HIV/AIDS policies as may be applicable and as may be amended and updated from time to time by the National HIV/AIDS Authority, shall be deemed to be adopted by every institution upon their notification.

(3) The text of the HIV/AIDS policy shall be conveyed to all persons working in the institution and shall be prominently posted by the persons incharge of or responsible to the institution, or both, in English and in the language understood by the majority of persons working in or accessing such institution on special boards to be maintained for the purpose at or near the entrance through which the majority of the persons working in or accessing the services of the institution enter such institution.

(4) (a) The notice in sub-section (3) shall state the manner in which copies of the HIV/AIDS Policy may be obtained and persons working in or accessing the services of the institution shall be entitled to a copy of such policy free of charge.

(b) The HIV/AIDS policy of all institutions shall be available to all members of the public for a nominal fee.

(c) In the case of educational institutions, learners and their parents or guardians shall be given a copy of the HIV/AIDS policy free of charge immediately upon admission of the learner to the institution.

(5) The institution shall conduct annual training sessions for persons working in such institution in understanding and implementing the HIV/AIDS policy of the institution.

(6) The National HIV/AIDS Authority shall ensure that the institutional HIV/AIDS policy is reviewed and if necessary, updated and amended on an annual basis.

65. Nothing contained in this Chapter prohibits, limits or otherwise restricts the right of a person to other remedies provided under this Act or any other law for the time being in force to address violations of the provisions of this Act. Right of Redressal.

CHAPTER XIII

DUTIES OF STATE

66. (1) In compliance with the Constitution and India's commitments under international conventions to which it is party, the appropriate Government shall— State obligations.

(a) ensure the right of access to and equitable distribution of health facilities, goods and services including essential medicines on a non-discriminatory basis;

(b) based on epidemiological evidence and through a participatory and transparent process, adopt and implement a national public health strategy and plan of action, to be periodically reviewed, addressing the health concerns of the whole population and including methods such as right to health indicators and benchmarks, by which progress can be closely monitored; and

(c) enact, review and amend legislation to promote the rights of protected persons and to establish a legislative framework in consonance with the objectives of this Act.

(2) In order to fulfil its obligations under this Act, the appropriate Government shall—

(a) take measures to develop and promote awareness among protected persons of their rights and duties under this Act; and

(b) take measures to develop and implement programmes in order to promote the rights of protected persons under this Act including promoting and ensuring the greater involvement of HIV-positive persons and protected persons in programmes, action plans, policy formulation, decision-making processes and implementation of plans under this Act in particular and in the field of HIV/AIDS in general.

67. (1) The Central Government shall, in co-ordination with the HIV/AIDS Authorities establish an effective national framework to respond to HIV/AIDS which ensure a co-ordinated, participatory, transparent and accountable approach, integrating HIV/AIDS policy and programme responsibilities, across all branches of Government. Programmatic and Implementation Obligations.

(2) Each Central, State and local ministry shall ensure that HIV/AIDS and human rights are integrated into all its relevant plans and activities, including ministries and departments related to—

(a) Education;

(b) Law and justice, including police and corrective services;

(c) Science and research;

(d) Employment and public service;

(e) Welfare, social security and housing;

(f) Immigration, indigenous populations, foreign affairs and development cooperation;

(g) Health;

(h) Treasury and finance; and

(i) Defence, including armed services.

Interaction
with
International
Community.

68. (1) The Central Government shall initiate and ensure the ongoing interaction with neighbouring and other States to ensure that governmental responses to the HIV/AIDS epidemic will continue to make the best use of assistance available from the international community and such interaction shall, *inter alia*, reinforce, cooperation and assistance to areas related to HIV/AIDS and human rights, in particular relating to access to treatment.

(2) The Central Government shall promote HIV-related human rights in international forums and ensure that they are integrated into the policies and programmes of International Organizations.

(3) The Central Government shall consider international guidelines, as they develop, in the formulation of HIV-related policies and programmes in India.

CHAPTER XIV

SPECIAL PROVISIONS

Women and
health.

69. (1) The State shall develop and implement a comprehensive national strategy for promoting women's right to health throughout their life span that includes interventions aimed at the prevention and treatment of diseases affecting women, as well as policies to provide access to a full range of high quality and affordable healthcare, including sexual and reproductive healthcare services and policies that ensure the education and empowerment of the girl child.

(2) In order to promote better health for women, the State shall integrate a gender-based approach that recognises that biological and socio-cultural factors play a significant role in influencing the health of women, in its health-related policies, planning, programmes and research.

(3) The State shall ensure the disaggregation of health and socio-economic data according to sex for the purpose of identifying and remedying inequalities in healthcare access and provision.

Right of
Residence.

70. Every protected person who is a woman or who is a person below the age of eighteen years shall have the right to reside in the shared household, the right not to be excluded from the shared household or any part of it and the right to enjoy and use the facilities of such shared household in a non-discriminatory manner.

Explanation.— "shared household" means a household where a person lives or at any stage has lived in a domestic relationship either singly or along with another person and includes such a household whether owned or tenanted either jointly or singly, any such household in respect of which either person or both, jointly or singly, have any right, title, interest or equity and includes a household which may belong to a joint family of which either person is a member, irrespective of whether either person has any right, title or interest in the shared household.

Registration
of marriages.

71. (1) In addition to and not in derogation of existing laws,—

(a) all marriages solemnised after the commencement of this Act shall be registered in such manner as may be prescribed; and

(b) a marriage that is not registered after two years from the commencement of this Act or one year from the date of its solemnisation, whichever is later, shall be voidable at the option of the woman; and

(c) in the case of a marriage that has been declared void under this section, all rights and obligations including the right to maintenance, the right of legitimacy of children who would have been legitimate had the marriage not been dissolved and rights related to property, shall be such as they would have been had the marriage been dissolved under the applicable law.

(2) The appropriate Government shall appoint Registration Officers in every sub-district in the country.

(3) The Central Government in consultation with the State Governments shall within three hundred and sixty days of the commencement of this Act, prescribe the procedure for registration of marriages and shall design and implement a system for indexing and centralising marriage records.

(4) No marriage shall be registered unless the Registering Officer is satisfied that the persons intending to marry have received HIV-related IEC in accordance with section 72 of this Act.

72. (1) The National HIV/AIDS Authority shall, within ninety days of its constitution and establishment, formulate guidelines, content and protocols for the provision of HIV-related IEC before marriage.

HIV-related
IEC before
marriage.

(2) The appropriate Government shall establish a Counselling Centre at each Marriage Office in each district, which shall implement the protocols formulated under sub-section (1) above.

(3) All persons intending to get married or whose marriage has not been registered shall receive face to face and one-on-one HIV/AIDS related information provided and conveyed in an effective and interactive manner and shall be offered HIV/AIDS related counselling.

Explanation.— For the purposes of this section, HIV-related IEC includes information related to sexual health, contraception, condom usage, sexuality, the methods of transmission of HIV and other sexually transmitted infections, and voluntary HIV testing.

73. (1) Without prejudice to the generality of the provisions of this Act and notwithstanding anything contained in any law for the time being in force, an HIV-positive woman who is pregnant shall have the right to receive such counselling and information as to enable her to make a decision about her pregnancy, whether or not to undertake HIV-related treatment and in relation to other matters affecting her health and pregnancy.

HIV-positive
women who
are pregnant.

(2) No woman who is pregnant and a protected person shall be subject to forced sterilisation or abortion.

(3) The National HIV/AIDS Authority shall within sixty days of its constitution and establishment, develop protocols for the testing, treatment and counselling of HIV-positive women who are pregnant and every healthcare institution shall implement such protocols immediately upon their notification.

(4) Protocols formulated under sub-section (3) shall provide *inter alia* counselling guidelines in relation to care and treatment for the HIV-positive woman and her child, that informed consent must form the basis for the woman's individual decision, recognition of the right of the woman to decide, that the decision to use any HIV/AIDS related treatment during pregnancy should be made by the woman following discussions with her healthcare provider regarding the benefits and risks to her and her foetus and counselling on feeding and infant milk substitutes.

74. (1) The Central Government shall, within three hundred and sixty days of the commencement of this Act, formulate, notify and implement Regulations specifying protocols for the counselling and treatment of survivors of sexual assault and for the training of healthcare providers and other service providers in the implementation of such protocols.

Sexual assault
Protocols.

(2) The appropriate Government shall, within seven hundred and twenty days of the commencement of this Act, establish one or more sexual assault crisis centres in each district in its jurisdiction.

(3) in fulfilling its obligations under sub-section (1) and (2), the appropriate Government shall consult different stakeholders including women's groups, child rights groups, groups working on sexuality, sexual health, HIV/AIDS, healthcare providers and forensic experts.

(4) Every survivor of sexual assault, whether or not they have reported the sexual assault to law enforcement agencies, shall have access to the following services on a confidential basis,—

(a) counselling;

(b) prevention and management of sexually transmitted infections including access to testing and prophylactic treatment;

(c) prevention, treatment and management of other medical conditions or injuries associated with the sexual assault;

(d) HIV/AIDS related counselling and treatment if required and in the best interest of the survivor;

(e) follow up treatment and care; and

(f) referrals:

Provided that where the survivor of sexual assault is a person below the age of twelve years, the healthcare or other service provider under whose care such person is, may encourage the involvement of a parent or guardian, unless it is detrimental to and interferes with the progress and care of the survivor, in which case the consent of such parent or guardian for the provision of services shall not be required.

(5) Notwithstanding anything contained in any law for the time being in force, no healthcare or other service provider or person in charge of an institution providing services to a survivor of sexual assault shall report or release information regarding the assault or the survivor without the written informed consent of the survivor.

Explanation I.—For the purposes of this section, sexual assault is any non-consensual contact with a sexual purpose including an offence against any person under section 376, section 376A, section 376B, section 376C, section 376D and section 377 of the Indian Penal Code, 1860 whether or not such an act is recognised as a crime by law for the time being in force and whether or not it is reported to the police.

45 of 1860.

Explanation II.—For the purposes of this section sexual assault includes non-consensual sexual contact by a man with his wife.

75. (1) Every person who is in the care or custody of the State shall have the right to HIV prevention, counselling, testing and treatment services.

(2) The State shall, within one hundred and eighty days of the commencement of this Act, introduce strategies for risk reduction including age appropriate information, education and communication for persons below the age of eighteen years, sexual health information, condoms, needle exchange and drug substitution programmes for all persons in its care or custody.

(3) A person in the care or custody of the State who has been exposed to the risk of HIV transmission, shall be referred immediately to a State healthcare institution or a sexual assault crisis centre, as the case may be, for HIV-related counselling, treatment or other services and shall be entitled to, if recommended, post exposure prophylaxis and HIV related treatment from the State.

(4) Every person in the care or custody of the State shall be entitled to receive their complete medical records upon their release or discharge.

Explanation.—For the purposes of this section, persons in the care or custody of the State include persons convicted of a crime and serving a sentence, persons awaiting trial,

Persons in
the Care or
Custody of
the State.

56 of 2000
104 of 1956.

person detained under preventive detention laws, persons under the care or custody of the State under the Juvenile Justice (Care and Protection of Children) Act, 2000, the Immoral Traffic (Prevention) Act, 1956, and persons in the care or custody of State run homes and shelters.

76. (1) The State shall ensure access to child-friendly information about preventive and health-promoting behaviour and support to families and communities in implementing these practices.

Children.

(2) The State shall adopt effective and appropriate measures to abolish harmful practices affecting the health of children, particularly girls, including early marriage and preferential feeding and care of male children.

(3) The State shall provide a safe and supportive environment for young persons, that ensures the opportunity to participate in decisions affecting their health, to build life-skills, to acquire appropriate information, to receive counselling and to negotiate the health behaviour choices they make.

(4) The State shall ensure the development of youth-friendly healthcare, which respects confidentiality and privacy and includes appropriate sexual and reproductive health services.

(5) In all policies and programmes aimed at guaranteeing the right to health of children and young persons their best interests shall be a primary consideration and in the formulation of such policies and programmes, the State shall consult children and non-governmental organisations working with children at national, state and local levels.

77. (1) The appropriate Government shall, in consultation with health professionals and organisations working with children affected by HIV/AIDS, formulate guidelines and train healthcare providers on various aspects of care, support and treatment of children affected by HIV/AIDS, including in relation to psychological care and HIV-related treatment.

Children
affected by
HIV/AIDS.

(2) The appropriate Government shall ensure that children affected by HIV/AIDS can access educational institutions and shall formulate and implement programmes to address barriers to education including school fees and other costs.

78. (1) The appropriate Government shall protect the property of children affected by HIV/AIDS.

Protection of
Property of
Children
affected by
HIV/AIDS.

(2) The Central Government shall, within ninety days of the commencement of this Act frame rules for the protection of property of children affected by HIV/AIDS.

(3) Parents or guardians of children affected by HIV/AIDS, or any person acting in their best interest, or a child affected by HIV/AIDS, may approach the Child Welfare Committee for the safe keeping and deposit of documents related to the property rights of such child or to make complaints relating to the threat of such child being dispossessed, actual dispossession or trespass into such child's house even in the absence of documents related to the property rights of such child.

(4) The Child Welfare Committee shall properly maintain and protect all such documents and shall ensure the maintenance of confidentiality of all protected persons.

(5) The Child Welfare Committee shall pass appropriate orders in the best interests of children affected by HIV/AIDS, including orders to preserve the property of such children, to make investments of the property or to take possession of documents related to the property where both the parents or legal guardian of such children have either died or are incapacitated.

(6) The Child Welfare Committee shall take the assistance of different stakeholders including HIV-positive persons, persons working in the field of HIV/AIDS, child-line organizations and non-governmental organisations working with children in such matters.

Explanation.—"Child Welfare Committee" means a committee set up under the Juvenile Justice (Care and Protection of Children) Act, 2000.

56 of 2000.

Recognition
of
Guardianship
of older
sibling.

79. (1) Notwithstanding anything contained in any law for the time being in force, a person below the age of eighteen years who is the managing member of a family affected by HIV/AIDS shall be competent to act as guardian of any other persons below the age of eighteen years who are members of such family for the following purposes:—

- (a) admission to educational institutions;
- (b) care and protection;
- (c) treatment;
- (d) operating bank accounts;
- (e) managing property; and
- (f) for all other purposes that may be required to discharge duties as a guardian.

Explanation.—For the purposes of this section, a family affected by HIV/AIDS, is one where both parents or the legal guardian is incapacitated due to HIV-related illness or AIDS, those living in households of children orphaned by AIDS or if they are not orphaned, then the legal guardian or parents are unable to discharge their duties in relation to such children.

De-Facto
guardian.

80. (1) Notwithstanding anything contained in any other law for the time being in force, a person who has no parental responsibilities and rights in respect of a child but who voluntarily cares for the child either indefinitely, temporarily or partially, including a care-giver who otherwise has no parental responsibilities and rights in respect of a child, shall, while the child is in that person's care, have the duty to —

- (a) safeguard the child's health, well-being and development; and
- (b) protect the child from maltreatment, abuse, neglect, degradation, discrimination, exploitation and any other physical or mental harm or hazards.

(2) A person referred to in sub-section (1) may exercise parental responsibilities and rights reasonably necessary to comply with sub-section (1), including the right to consent to HIV/AIDS related treatment of, or other healthcare service for, the child if such consent cannot reasonably be obtained from the parent or primary care-giver of the child or the concerned child.

Living wills,
stand by
guardianship
and
testamentary
guardianship.

81. (1) Notwithstanding anything contained in any law for the time being in force, a parent or legal guardian of a child affected by HIV/AIDS may appoint, by making a will, an adult person who is a relative or friend, or a person below the age of eighteen years who is the managing member of the family affected by HIV/AIDS to act as legal guardian immediately upon the parent or legal guardian's incapacity or death.

(2) Nothing in this section shall divest a parent or legal guardian of their rights, and the guardianship referred to in sub-section (1) shall cease to operate upon the parent or legal guardian regaining capacity.

(3) Parent or legal guardians of children affected by HIV/AIDS may make a will appointing a guardian for care and protection of such children and for the property that such children would inherit or which is bequeathed through the will.

CHAPTER XV

SPECIAL PROCEDURES IN COURT

Suppression
of identity.

82. (1) In any legal proceeding in which a protected person is a party or such person is an applicant, the court, on an application by such person, that it is in interest of justice, may pass any or all of the following orders:

(a) that the proceeding or any part thereof be conducted by suppressing the identity of the applicant by substituting the name of such person with a pseudonym in the records of the proceedings in such manner as may be prescribed;

(b) that the proceeding or any part thereof may be conducted in camera; and

(c) restraining any person from in any manner publishing any matter leading to the disclosure of the name or status or identity of the applicant.

(2) Any proceeding where an order under sub-section (1) is passed shall be conducted in such manner as may be prescribed.

83. (1) In any legal proceeding concerning or relating to an HIV-positive person, the court shall take up and dispose off the proceeding on a priority basis. Priority.

(2) In such a legal proceeding, the court shall, as soon as possible, but not later than one hundred and twenty days of the institution of the proceedings, fix a timetable for the final hearing and disposal of the proceeding in consultation with the parties.

(3) The timetable so fixed shall take into account any arbitration, mediation or settlement that may be ordered or the evidence that may be taken and the final oral and written arguments and judgement that may be pronounced, such that the time taken for disposing of the entire proceeding, from the date of its institution till final disposal shall, in a proceeding which requires evidence to be taken be not more than three years, and in any other case be not more than two years.

(4) The timetable for a trial in any legal proceeding concerning or relating to an HIV-positive person shall be so fixed that it is conducted on a daily basis.

(5) Evidence in such proceedings shall, to the extent possible, be taken before a commissioner as provided in Order XVIII of the Code of Civil Procedure, 1908. 5 of 1908.

(6) Any interim application made in such a proceeding shall not affect the timetable or be a basis of enlarging the time fixed for the final disposal of the proceeding.

(7) Any party not adhering to the timetable, except in cases of illness of the HIV-positive person, who is party to or a witness in the proceedings, shall be liable to pay costs of not less than one thousand rupees per day of the delay to the legal aid fund of the concerned court:

Provided that each party to the proceeding shall be entitled to three adjournments during the course of the proceedings to use as they choose to.

(8) All interlocutory applications in any such proceedings shall be disposed off in a summary manner on the basis of document before the court without prejudicing the rights of the parties or delaying the final disposal of the main proceedings.

(9) In a proceeding in which an HIV-positive person is a party, if the judge presiding over the matter is transferred, retires or otherwise vacates the court, the judge who has the power to transfer cases in such court, shall within thirty days transfer the proceeding to another judge.

Explanation.—For the purposes of this section 'judge' includes the President, Principal Judge, Chief Justice, Chief Metropolitan Magistrate or Chief Judge of the concerned court.

84. (1) In any maintenance application filed by or on behalf of a protected person under any law for the time being in force, the court shall on the first date after the application is filed, consider the application for interim maintenance and have the power to grant *ad hoc* maintenance on the basis of the application alone until the disposal of or further orders in, the application. Maintenance.

(2) In passing any order of maintenance the court shall take into account medical costs and other HIV-related costs that may be incurred by the application.

Sentencing.

85. In passing any orders relating to sentencing, the HIV-positive status of the person in respect of whom such an order is passed shall be a relevant factor to be considered by the court to determine the custodial facility that the person shall be transferred to based on the availability of proper healthcare services at such facility.

Powers of Court.

86. (1) Notwithstanding any other law for the time being in force, in the adjudication or prosecution of any proceedings whether civil or criminal, which are instituted in terms of or under this Act a court shall, in addition to any other order that it may pass, order the person who has committed a breach of this Act to undergo a fixed period of counselling related to the breach committed or a fixed period of social service.

(2) Notwithstanding any other law for the time being in force, in the adjudication of any proceedings, which are instituted in terms of or under this Act a court may pass appropriate order in the circumstances of the case to:—

(a) prevent breaches of the provisions of this Act; or

(b) redress breaches of the provisions of this Act by directing:

(i) specific steps, special measures or affirmative actions or both to be taken;

(ii) the award of damages including specific, general, aggravated and exemplary damages with interest for past and future losses, personal injuries, and injury to reputation or feelings;

(iii) the withdrawal of, or ceasing and desisting from, committing breaches of this Act;

(iv) the employer of a person who has committed a breach of this Act to initiate disciplinary action against such person;

(v) the employer of the person who has committed a breach of this Act to put the matter in the employee's Annual Confidentiality Report;

(vi) the inclusion of the matter in the Annual or other report of the person who has committed a breach of this Act that is available to the public and that is filed with regulatory authorities, where such person is an institution;

(vii) the person who has committed a breach of this Act to undergo an audit of specific policies or practices as may be determined by the court, where such person is a registered company, institution, society or other body;

(viii) an appropriate order of a deterrent nature, including a recommendation to the appropriate authority, to suspend or revoke the licence of the person who has committed a breach of this Act;

(ix) any person who has committed a breach of this Act to make regular progress reports to the court regarding the implementation of the court's order;

(x) the Registrar of the court to report the matter where a criminal offence is disclosed during the course of the proceedings, to the concerned police station having jurisdiction for the possible institution of criminal proceedings; or

(xi) any other order as may be necessary in the interests of justice.

(3) In a proceeding relating to discrimination in employment under this Act, the court shall have the power to pass any or all of the following orders:

(a) that the person discriminated against be employed;

(b) that the person discriminated against be reinstated;

(c) that the person who has discriminated make arrangements for the reasonable accommodation of the person discriminated against;

(d) the payment of wages, salary, income, allowances, benefits, perquisites and privileges that may have been lost on account of non-employment or termination; and

(e) award special, general and exemplary damages on account of the non-employment, termination, emotional distress and pain or loss of reputation.

87. (1) An HIV/AIDS Authority or any person may petition a court in relation to any institution with a record of continuous violations of the provisions of this Act.

Power of Court to order systemic audits.

(2) Based upon a petition under sub-section (1), a court may appoint the concerned HIV/AIDS Authority or such other persons as it deems fit to conduct an audit of such institution to determine the causes of the continuous violations of the Act and based on the report of such audit may make such orders as may be necessary to address the systemic violations of the Act including any or all of the following orders:

(a) rectification of the breaches of the Act;

(b) initiation of disciplinary proceedings; and

(c) training and sensitisation programmes for all or any persons in such institution.

88. When the question is whether a protected person has been discriminated against under this Act and it is shown that the person against whom such discrimination is alleged to have taken place is a protected person and that the act or omission alleged as being discriminatory took place, the court shall presume, that such act or omission is discrimination under this Act and—

Presumption as to discrimination.

(a) the respondent must prove, on the facts before the court, that the discrimination did not take place as alleged; or

(b) the respondent must prove that the conduct is not based on one or more of the prohibited grounds:

Provided that the presumption as to non-existence of undue hardship under clause (ii) of sub-section (a) of section 4 shall operate without prejudice to the presumption under this provision.

89. Nothing contained in this law prohibits, limits or otherwise restricts the jurisdiction of civil and criminal courts to address violations of the provisions of this Act.

Jurisdiction of Courts.

CHAPTER XVI

PENALTIES

90. Notwithstanding any action that may be taken under any law for the time being in force, whoever contravenes the provisions of section 5 shall be punished with imprisonment of either description for a term which shall not be less than three months but which may extend to two years and with fine that may extend to one lakh rupees or both.

Penalty for contravention of provisions of section 5.

91. Notwithstanding any action that may be taken under any law for the time being in force, misinformation on HIV/AIDS prevention and control, including through false and misleading advertising and claims in any media or the promotional marketing of drugs, devices, agents, or procedures without prior approval from the Drugs Controller General of India and the requisite medical and scientific basis, including markings and indications in drugs and devices and agents, purporting to be a cure or fail safe prophylactic for HIV/AIDS, shall be punished with imprisonment of either description for a term that shall not be less than three months but may extend to two years or a fine that shall not be less than twenty thousand rupees but may extend to one lakh rupees or both.

Penalty for misleading information.

Penalty for contravention of sub-section (4) of section 21 by public servant.

92. A public servant who contravenes the provisions of sub-section (4) of section 21 shall, on conviction, be punished with simple imprisonment for a term which may extend to one year and with fine that may extend to one lakh rupees.

Failure to comply with orders of Health Ombud.

93. (1) Whoever fails to comply with any order given by a Health Ombud within such time as may be specified in such order shall, on conviction, be liable to pay a fine which may extend to ten thousand rupees and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(2) If the failure referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall, on conviction, be punished with imprisonment of either description for a term which shall not be less than three months but which may extend to one year and with fine that shall not be less than ten thousand rupees but which may extend to one lakh rupees.

Penalty for contravention of provisions of clause (c) of sub-section (1) of section 82.

94. Notwithstanding any action that may be taken under any law for the time being in force, whoever contravenes an order under clause (c) of sub-section (1) of section 82 shall be punished with simple imprisonment for a term that may extend to one year or with a fine that may extend to one lakh rupees.

Offences by Companies.

95. (1) Where an offence under this Act has been committed by an institution, every person who at the time the offence was committed was in charge of, and was responsible to the institution for the conduct of its activities, as well as the institution, shall be deemed to be guilty of the offences and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if it is proved that the offence was committed without the person's knowledge or that such person exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by an institution and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the institution, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section "director" in relation to a firm means a partner in the firm.

Offences by Government Departments.

96. Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if it is proved that the offence was committed without such person's knowledge or that such person exercised all due diligence to prevent the commission of such offence.

Court competent to try offences under this Act and take cognizance of offence.

97. No court other than the court of a Judicial Magistrate of First Class shall take cognizance of or try an offence under this Act.

98. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, offences under this Act shall be cognizable and bailable.

Offences to be cognizable and bailable.

99. All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure.

Offences under the Act to be tried summarily.

CHAPTER XVII

MISCELLANEOUS

100. (1) The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

(2) The provisions of this Act shall have overriding effect notwithstanding anything to the contrary contained in the memorandum or articles of a company, or in any agreement executed by it, or in any resolution passed by the company in general meeting or by its board of directors, whether the same be registered, passed or executed, as the case may be before or after the commencement of this Act.

(3) Any provision contained in the memorandum, articles, agreement or resolution aforesaid shall to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.

101. The Director, members, officers and other employees of the HIV/AIDS Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

Member and Staff of HIV/AIDS Authorities etc. to be public servants.

27 of 1957.
43 of 1961.

102. Notwithstanding anything contained in the Wealth Tax Act, 1957, the Income-tax Act, 1961, or any law for the time being in force relating to tax on wealth, income, profits or gains, the HIV/AIDS Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income or profits or gains derived.

Exemption from tax on wealth and income.

103. The appropriate Government shall cause to be placed before both Houses of the concerned legislature once a year a report regarding the performance of the HIV/AIDS Authority under this Act.

Report of the HIV/AIDS Authority to be placed before Legislature.

104. No suit, prosecution or other legal proceeding shall lie against the Central Government or HIV/AIDS Authority, or against any officer of the Central Government or the Director or members or employees of the HIV/AIDS Authority or any person acting under such Government, or HIV/AIDS Authority for anything which is in good faith done or intended to be done under this Act or any Rule or Regulation thereunder.

Protection of action taken in good faith.

105. The appropriate Government may, by general order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any as may be prescribed in the order, be exercisable also by an officer subordinate to that Government or the local authority.

Delegation of powers.

106. (1) The appropriate Government may, by notification in the Official Gazette, make rules and regulations to carry out the purposes of this Act.

Power to make Rules and Regulations.

(2) Without prejudice to the generality of sub-section (1), the appropriate Government may make rules to provide for all or any of the following matters:—

(i) the salary and allowances of the Health Ombud under section 28;

(ii) the procedure to be followed by the Health Ombud under sub-section (1) of section 30;

(iii) the receipt of complaints by the Health Ombud under sub-section (2) of section 30;

(iv) additional powers of the civil court that a Health Ombud may enjoy in making an inquiry under clause (f) of sub-section (4) of section 30;

(v) the manner in which the Health Ombud will maintain records under sub-section (7) of section 30;

(vi) orders as to cost to be made by the Health Ombud under sub-section (3) of section 30;

(vii) the salary and allowances of Directors and other members of HIV/AIDS Authorities under section 44;

(viii) the meeting of HIV/AIDS Authorities and rules of procedure under section 45;

(ix) the allowances and fees of members of HIV/AIDS Authorities for attending meetings under sub-section (2) of section 46;

(x) the controls and restrictions in appointment of officers and employees of the HIV/AIDS Authorities under section 47;

(xi) the salaries and conditions of service of officers and employees of the HIV/AIDS Authorities under section 47;

(xii) the powers and duties of Directors of HIV/AIDS Authorities under section 48;

(xiii) additional powers of a civil court that an HIV/AIDS Authority may enjoy in conducting inquiries under clause (f) of sub-section (1) of section 53;

(xiv) the budget of the HIV/AIDS Authorities under sub-section (4) of section 58;

(xv) the records and annual statements of account of HIV/AIDS Authorities under section 59;

(xvi) the procedure to be followed by a Complaints officer under section 63;

(xvii) the procedure relating to registration of marriages under clause (a) of sub-section (1) of section 71;

(xviii) the protection of property of children affected by HIV/AIDS under sub-section (2) of section 78;

(xix) the suppression of identity in court proceedings under sub-section (1) of section 82;

(xx) the conduct of proceedings where suppression of identity and in camera orders are passed under sub-section (2) of section 82; and

(xxi) the delegation of powers under section 101.

(3) Without prejudice to the generality of sub-section (1), the appropriate Government may make regulations to provide for all or any of the following matters:—

(i) pre and post test counselling under sub-section (6) of section 8;

(ii) epidemiological studies under proviso to clause (c) of section 9;

(iii) recognition of voluntary counselling and testing centres and pathology laboratories for conducting HIV tests under proviso to sub-section (3) of section 10;

(iv) technologies for self testing of HIV under sub-section (5) of section 10;

- (v) data protection under section 15;
- (vi) establishment of voluntary counselling and testing centres under sub-section (3) of section 17;
- (vii) universal Precautions and Post Exposure Prophylaxis Protocols under proviso to sub-section (4) of section 20;
- (viii) drug Substitution, drug maintenance and Needle Syringe Exchange programmes under sub-section (2) of section 21;
- (ix) the training of the Health Ombud under section 26;
- (x) HIV/AIDS surveillance under clause (h) of sub-section (3) of section 50;
- and
- (xi) the setting up of HIV/AIDS help lines under clause (d) of section 52.

(4) Every rule or regulation made by the appropriate Government under this Act shall be laid, as soon as may be after it is made, before the Legislature of such appropriate Government.

107. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the commencement of this Act.

(2) However, orders made under this section shall be laid, within thirty days, before each House of Parliament.

108. The Central Government in consultation with the National HIV/AIDS Authority shall,—

Review and
monitoring
of Act.

(a) develop and implement effective and stringent monitoring and reporting mechanisms to oversee the implementation and enforcement of this Act by all persons; and

(b) undertake a review of the working of this Act every three years to ensure that it adequately addresses the issues raised by the HIV epidemic, is successful in promoting and protecting the rights of protected persons and in preventing and controlling the HIV epidemic and it is consistent with constitutional and international human rights obligations.

SCHEDULE I

(See section 4)

*Illustrative List of Unfair Treatment in Certain Sectors***1. Employment**

- (a) Denial of terms and conditions or benefits and privileges of services that other persons in the same position would enjoy including in relation to:—
 - (i) Recruitment procedures, advertising and selection criteria;
 - (ii) Appointments, and the appointments process, including job placement;
 - (iii) Job classification or grading;
 - (iv) Remuneration, employment benefits and terms and conditions of employment;
 - (v) Employee assistance programmes;
 - (vi) Workplace and facilities;
 - (vii) Occupational health and safety;
 - (viii) Training and development;
 - (ix) Performance evaluation system;
 - (x) Promotion, transfer and demotion;
 - (xi) Disciplinary measures;
 - (xii) Termination of services;
 - (xiii) Provident fund;
 - (xiv) Gratuity and health insurance; and
 - (xv) Non-renewal of employment contract.
- (b) Pressure to leave the employment,
- (c) Insistence for resignation/VRS,
- (d) Being asked not to report for duty,
- (e) Denial of promotions,
- (f) Arbitrary suspension or disciplinary action,
- (g) Creation of a non-conducive atmosphere for work,
- (h) Prejudicial comments and behaviour,
- (i) Public identification, and
- (j) Mandatory isolation or segregation.

2. Healthcare

- (a) Provision of medically inappropriate treatment for the condition diagnosed,
- (b) Untimely or arbitrary discharge,
- (c) Charging higher rates for the same or similar services provided to another person at any stage (conditional treatment),
- (d) Imposing conditions in the form of research,
- (e) Prejudicial comments and behaviour,

- (f) Public identification,
- (g) Isolation or segregation unless medically indicated,
- (h) Pressure to leave the healthcare institution, and
- (i) Undignified treatment of a corpse.

3. Education

- (a) Arbitrary suspension by or disciplinary action from an educational institution,
- (b) Prejudicial comments and behaviour,
- (c) Public identification,
- (d) Isolation or segregation unless medically indicated,
- (e) Denial of participation in benefits or services,
- (f) Pressure to leave an educational institution,
- (g) Non-provision of reasonable accommodation,
- (h) Demanding 'HIV-free' certificate at the time of admission 54 of 57,
- (i) Demanding disclosure of HIV test results (irrespective of positive or negative) from the students, and
- (j) Denial of admission on the basis of HIV positive status.

4. Insurance

- (a) Non-renewal of insurance contract,
- (b) Termination of insurance contract,
- (c) Higher premiums,
- (d) AIDS caps,
- (e) Delay in processing of claims,
- (f) Denial of claims,
- (g) HIV/AIDS exclusion clauses, and
- (h) Exclusion clauses based on actual or perceived association with an HIV-positive person or of exposure to HIV.

5. Institutions

- (a) Prisons, Juvenile homes, Rehabilitation Centers, Mental homes, Adoption homes, Hospices, NGOs, Night shelters.

SCHEDULE II

[See section 51 (e)]

1. Prevention
2. Blood Safety: To ensure availability of adequate and safe blood and blood products for the general population through promotion of voluntary blood donation in the country
3. Risk Reduction
4. STI Control
5. Condom Programming
6. IEC and social mobilisation
7. Spread HIV—related literacy among various sections of society and promote awareness of the safeguards available for the protection of the rights of protected persons through publications, the media, seminars and other available means
8. Care and support for HIV-positive persons
9. Training on HIV/AIDS/STD prevention and control
10. National Family Health Awareness Programme
11. Prevention of Mother to Child transmission
12. Voluntary Testing and Counselling
13. Research and Development
14. Intersectoral collaboration
15. International and bilateral cooperation
16. Programme financing
17. Monitoring and Evaluation
18. External Quality Assurance Scheme
19. Access to Treatment—update WHO essential medicines list
20. Authority shall collect, update and disseminate scientific knowledge/collect, compile and publish technical and statistical data relating to HIV and the measures devised for its effective prevention and control and prepare manuals, codes or guides and disseminate information connected therewith
21. Sensitisation programmes for judiciary, law enforcement etc.
22. Maintain list of care and support centers and homes, doctors providing care and treatment for HIV/AIDS, helplines, testing facilities, legal assistance
23. Institute good practices for the proper surveillance of HIV/AIDS
24. Clinical Management of HIV/AIDS
25. Assist in the implementation of good practices within corporates
26. Corporate collaboration as part of social responsibility schemes
27. NGOs
28. Counselling Guidelines

STATEMENT OF OBJECTS AND REASONS

Effective legislation addressing the HIV/AIDS epidemic in India is of extreme importance in the context of the prevailing situation in the country. The estimated number of people living with HIV/AIDS as of 2007 are 2.31 million. Of these, an estimated 39% are female and 3.5% are children. These figures significantly under-represent the actual number of people living with AIDS. Many AIDS deaths go unreported in India, due to unprecedented levels of stigma and discrimination. HIV and AIDS affect all segments of India's population, from children to adults, businessmen to homeless people, female sex workers to housewives, and gay men to heterosexuals. However, HIV prevalence among certain groups like sex workers, injecting drug users, truck drivers, migrant workers, gays remain high and is currently around 6 to 8 times that of the general population.

The Bill seeks to provide, *inter alia*, for:—

- (i) protection of the rights of persons affected by HIV.
- (ii) prevention of discrimination to the persons affected by HIV/AIDS in employment, healthcare, education, residence, travel, public/private office, access to services, insurance, etc.
- (iii) maintaining confidentiality of HIV related information.
- (iv) providing access to treatment to the persons suffering from HIV/AIDS without any discrimination in Government hospitals and dispensaries.
- (v) providing social security and launching welfare schemes for persons suffering from HIV/AIDS.

The Bill seeks to achieve the above objectives.

NEW DELHI;
November 5, 2014

KIRIT PREMJI BHAI SOLANKI

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117(1), 274(1) AND 117(3)
OF THE CONSTITUTION

[Copy of letter No. H. 11018/1/2011-NACO (P&C) dated 5 March, 2015 from Shri Jagat Prakash Nadda, Minister of Health and Family Welfare to the Secretary General, Lok Sabha].

The President, having been informed of the subject matter of the HIV/AIDS Bill, 2015 by Dr. Kirit Premjibhai Solanki, Member of Parliament, recommends its introduction under articles 117(1) and 274(1) and consideration under article 117(3) of the Constitution in Lok Sabha.

FINANCIAL MEMORANDUM

Clause 17 of the Bill provides for right to health and certain supports facilities, goods, measures, service and medical infrastructure. Clause 18 provides for giving wide dissemination protocols for HIV/AIDS-related testing and treatment methodologies. Clause 19 provides for healthcare facilities including travel subsidies for HIV-positive persons and training to staff, tax incentives and exemption and promotion of research and development for prevention and treatment of HIV/AIDS. Clause 20 provides for right to safe working environment. Clause 22 provides for implementation of health insurance and social security schemes for HIV-positive and AIDS patients. Clause 23 provides for right to information and education relating to health and protection of health, etc. Clause 24 provides for duty of State to promote HIV/AIDS-related information, education and communication. Clause 25 provides for HIV/AIDS information by healthcare providers. Clause 26 provides for appointment of Health Ombud in each district. Clause 28 provides for salary and allowances of Health Ombud. Clause 36 provides for constitution of HIV/AIDS Authorities at National, State and local levels to perform the functions assigned under this Act. Clause 38 provides for setting up of offices of HIV/AIDS Authority. Clause 39 provides for composition of HIV/AIDS Authorities. Clause 41 provides for Advisory Committee to advice the National Authority in the matters relating to protection and promotion of rights to infected persons, care, support and treatment of persons living with HIV/AIDS. Clause 42 provides for appointments to HIV/AIDS Authority and nomination committee by the appropriate Government. Clause 44 provides for salary and allowances of Director and members of the HIV/AIDS Authority. Clause 45 provides for meetings of the HIV/AIDS Authority. Clause 46 provides for constitution of the Committees by Authority. Clause 49 provides for transfer of undertakings under the National Authority or the State Authority concerned and confer the status of employer and provides them benefits including salary, allowances and other remunerations, etc. Clause 50 provides for implementation of HIV related programme as specified in Schedule II. Clause 51 provides for functions of the National HIV/AIDS Authority. Clause 52 provides for additional functions of State and Union territory HIV/AIDS Authority. Clause 56 provides for calling upon expert in the fields of health, human rights, law and other discipline for providing support to HIV/AIDS affected persons. Clause 57 provides for dissemination of information about reports and minutes of meetings of the Authority. Clause 59 provides for budgetary provisions for Authority. Clause 64 provides for notification of model HIV/AIDS policies. Clause 66 provides for certain obligations of State for promotion of right of protected persons under the Act. Clause 68 provides for interaction with international community and organizations. It also provides for promotion of HIV related human rights. Clause 69 provides for developing and implementing strategy to promote women's right to health. Clause 71 provides for appointment of Registration officers in every sub-district for registration of marriage and for maintaining records. Clause 72 provides for establishment of a Counselling Centre at each marriage office in each district. Clause 73 provides for right to counselling and information to the HIV-positive women who are pregnant. Clause 74 provides for setting up of sexual assault crisis centres in each district by the appropriate Government. Clause 75 provides that every person who is in the care or custody of the State shall have the right to HIV prevention, counselling, testing and treatment. Clause 76 provides that State shall provide a safe and supportive environment and healthcare for young persons. Clause 77 provides for care, support and treatment of children affected by HIV/AIDS. Clause 78 provides for protection of property of children affected by HIV/AIDS. Clause 102 provides exemption from paying of wealth-tax, income-tax or any other tax to the Authority in respect of their wealth, income or profits or gain. The Central Government has to bear the expenditure in respect of Union territories in implementing the provisions of the Bill. The respective State Government shall bear the expenditure in respect of their States. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure to the tune of rupees five hundred crore is likely to be incurred per annum.

A non-recurring expenditure of rupees one hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 106 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of Legislative power is, therefore, of a normal character.

BILL NO. 102 OF 2015

A Bill to provide for establishment of a National Commission for the welfare of farmers and for matters connected therewith.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title
and extent.

1. (1) This Act may be called the Farmers Welfare Act, 2015.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(i) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(ii) "National Commission" means the National Commission for Farmers established under section 3;

(iii) "natural calamity" includes drought, flood, cyclone, hailstorm, landslide, cloud burst, tsunami, earthquake or fire especially in forest and adjacent areas or such other conditions as may be notified by the appropriate Government from time to time;

(iv) "prescribed" means prescribed by rules made under this Act; and

(v) "State Commission" means the State Commission established under section 5.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as the National Commission for Farmers.

Establishment
of a National
Commission
for Farmers.

(2) The Commission shall consist of—

(i) Union Minister of Agriculture, who shall be its Chairperson, *ex-officio*;

(ii) three members to be appointed by the Central Government from amongst the persons having special knowledge in the field of agriculture; and

(iii) three members representing the farmers to be appointed by the Central Government.

(3) The terms and conditions of service of the Chairperson and other members of the Commission shall be such as may be prescribed.

(4) The Commission shall have such number of officers and staff including experts as may be required for its efficient functioning.

4. (1) It shall be the duty of the National Commission to take such steps, as it may deem appropriate, for the welfare of farmers and their family members.

Functions of
the National
Commission.

(2) Without prejudice to the generality of the foregoing provision, the National Commission shall ensure the following provisions for the benefit and welfare of farmers, namely:—

(i) good quality seeds, manure, pesticides, fertilizers and other necessary tools and machineries at reasonable price as per their requirements;

(ii) uninterrupted power and water supply at reasonable rates for agricultural operation;

(iii) fix and declare minimum support prices of agriculture commodities before the sowing seasons after taking into consideration all the relevant factors and in particular the following factors, namely:—

(a) input cost including capital investment;

(b) labour charges; and

(c) maintenance cost of the farm;

(iv) transportation and marketing facilities for agricultural produce;

(v) payment of adequate compensation to farmers or their family members in case of accident or death during agricultural operations;

(vi) free medical and health insurance facilities to the farmers and their family members;

(vii) adequate cold storage facility for agricultural products at appropriate places;

(viii) provision of loan facilities or financial assistance to farmers; and

(ix) provision of a comprehensive crop insurance scheme for reparation of loss of crops due to natural calamities.

Establishment
of a State
Commission
for Farmers.

5. (1) There shall be established a State Commission for Farmers by the appropriate Government in each State.

(2) Each State Commission shall work under the National Commission for Farmers to assist it in discharge of its functions.

(3) The State Commission shall consist of—

(i) Minister of Agriculture in the State, who shall be its President, *ex-officio*;

(ii) three members to be appointed by the appropriate Government from amongst the person having special knowledge in the field of agriculture; and

(iii) three members representing the farmers to be appointed by the appropriate Government.

(4) The terms and conditions of service of the President and other members of the State Commission shall be such as may be prescribed.

(5) Each State Commission shall have such number of officers and staff including experts to be appointed by the National Commission as may be required for its efficient functioning.

Establishment
of District
Office by the
State
Commission.

6. (1) The State Commission shall establish its District Office in every district within its territorial jurisdiction.

(2) The District Office shall be headed by a District Officer to be appointed by the President of the State Commission.

(3) The District Office shall maintain, review and publish a *tehsil-wise* list of the farmers once in every six months.

Application
for availing
benefits.

7. (1) Any farmer who intends to avail benefits under this Act shall apply to the District Officer concerned in such form and manner as may be prescribed.

(2) The District Officer shall forward each application to the State Commission within three days of the date of receipt of the application.

(3) The State Commission shall, after holding such enquiry as it may deem necessary, either admit or reject the application, within thirty days from the date of receipt of application:

Provided that in case no decision is made on an application within thirty days, the applicant shall be deemed to be eligible for availing benefits under this Act:

Provided also that where an application is rejected by the State Commission, it shall record, in writing, the reasons for such rejection and communicate them to the applicant.

(4) Any applicant aggrieved by the decision of the State Commission may prefer an appeal to the National Commission in such form and manner as may be prescribed.

(5) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the applicant shall be given a reasonable opportunity of being heard.

Mode of
providing
relief or
benefit to
family
members of
farmers.

8. The mode of providing relief or benefit to the family members, in case of death of a farmer, shall be such as may be prescribed by the Central Government.

Responsibility
of the
National
Commission.

9. (1) It shall be the responsibility of the National Commission to ensure effective implementation and proper monitoring of the provisions in this Act.

(2) For the purpose of sub-section (1), the National Commission shall have power to issue such directives, as it may deem appropriate, to the State Commissions.

10. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the National Commission and State Commissions for carrying out the purposes of this Act.

Central Government to provide adequate funds to the National Commission.

11. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Power of the Central Government to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

12. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

About seventy per cent. of the population of the country lives in villages out of which approximately ninety per cent. people are engaged in agricultural activities. The economic condition of farmers have remained more or less unchanged so, far. They are always trapped in the vicious cycle of debt and the debt burden passes on to their next generation. The farmers always live in penury and remain apprehensive of their future. Therefore, the Government should take the responsibility of providing them their minimum requirements so as to enable them to perform their agricultural activities. The farmers work not only for earning their livelihood but they also provide succour to the entire nation. Of late, the incidents of committing suicides by the debt ridden farmers have increased manifold. Such cases of suicides can be avoided by providing certain facilities to farmers. If the farmers are provided with agricultural inputs at reasonable rates, the agricultural production will increase manifold which will ultimately benefit not only the farmers but the whole nation. Besides, certain other welfare measures like insurance, health service and financial assistance to farmers will go a long way to alleviate their sufferings.

Therefore, the Bill seeks to provide certain basic facilities like compensation, insurance cover, health services to farmers and their family members. It also provides for supply of good quality seeds, pesticides, manure and fertilizers and uninterrupted power and water supply, etc. to farmers for agricultural activities at reasonable cost so that they may carry out agricultural activities in an efficient manner without any hurdle.

Hence this Bill.

NEW DELHI;
March 16, 2015.

RAKESH SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of a National Commission for Farmers. Clause 4 provides for transportation and marketing facilities for agricultural produce, payment of adequate compensation in case of accident or death and free medical and health insurance facilities to the farmers and their family members. Clause 5 provides for establishment of a State Commission for Farmers in each State. Clause 6 provides for establishment of District Office in every district by the State Commission. Clause 10 provides that the Central Government shall provide adequate funds to the National Commission for carrying out the purposes of this Act. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand and five hundred crore will be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees three thousand and five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 103 OF 2015

A Bill to provide for free and compulsory education to every girl whose parents are living below poverty line.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Girls (Free and Compulsory) Education Act, 2015.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “education” means education from primary level to the post graduation level and includes technical and medical education;

(c) “girl” means a female who has not attained the age of twenty-five years;

(d) “parent” includes the adoptive or step parent and guardian of a girl;

(e) “parents living below poverty line” in relation to a girl means parents whose income from all sources does not exceed rupees three thousand per month; and

(f) “prescribed” means prescribed by rules made under this Act.

Free and compulsory education to every girl.

3. The appropriate Government shall provide free and compulsory education to every girl whose parents are living below poverty line and are ordinarily residing in its territorial jurisdiction.

Explanation.—For the purpose of this section, “free education” includes:—

(i) supply of books, writing materials and school uniform free of cost;

(ii) provision of mid-day meal and hostel facilities free of cost;

(iii) payment of monthly stipend at the rate of not less than rupees one hundred at the primary level, rupees two hundred up to the middle level and rupees five hundred up to the higher secondary level; and

(iv) provision of financial assistance for pursuing higher education including technical and medical education.

Establishment of schools and universities.

4. The appropriate Government shall establish and maintain or cause to be established or maintained adequate number of schools, universities and institutions within its territorial jurisdiction in order to ensure education of girls.

Duty of parents to admit their girl child to school.

5. (1) It shall be the duty of every parent to admit or cause to be admitted his girl child in school.

(2) No parent shall withdraw his girl child from a school or an institution of higher education, as the case may be, till she completes her course.

Prohibition on employment of girl.

6. No person shall employ a girl in any job which prevents her from receiving education upto such level, as may be determined by the Central Government.

Punishments.

7. Any person including parents, who for any reason prevents, restrains or obstructs a girl from attending school or receiving education, shall be punished with simple imprisonment for a term which may extend to one year and shall also be liable to fine.

Central Government to provide adequate funds to the State Governments.

8. The Central Government shall provide adequate funds to the State Governments for effective implementation of the provisions of this Act.

Power to make rules.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The ability to read and write is an essential element of human faculty. Literacy is the first step towards acquiring the tools of learning and opening the doors of knowledge and information. Education, apart from opening opportunities for girls, also empowers them to resist oppression and claim their rights.

In our country, girls belong to weaker and vulnerable section of the society. Although many steps have been taken to improve their condition, yet nothing concrete has been done. Even today, girls are not treated equally and are subjected to discrimination by their parents. They are kept away from school and are forced to assist their mothers in household affairs and are deprived of the joys of childhood. In various States, the menace of child marriage is still rampant and parents force their daughters into child marriage as they feel that their daughters are not safe after attaining the age of ten years.

It is an opportune time to take stock of the situation and to ensure that girls belonging to poor families are given free and compulsory education. Free education should also include stationery items, uniform, writing materials, books, hostel facilities, transport facilities, etc. free of cost to encourage the girls to get enrolled for education. This will not only help in eradicating illiteracy from the country but will also enable the girls to grow and compete with their male counterparts and raise their voice against any kind of injustice or exploitation.

Hence this Bill.

NEW DELHI;
March 16, 2015.

RAKESH SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide free and compulsory education to every girl whose parents are living below poverty line. Clause 4 provides that appropriate Government shall establish and maintain schools and other institutions of higher learning. Clause 8 provides for providing adequate funds to the state governments for effective implementation of the provisions of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifteen hundred crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees eighteen hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 100 OF 2015

A Bill to provide for uniform education to all the students from primary level to senior secondary level in the country

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Uniform Education Act, 2015.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "economically weak student" means a student whose parents' or guardians' income from all sources does not exceed rupees two thousand per month;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "uniform education" means education based on a uniform syllabus for each standard from primary to higher secondary level in all schools throughout the country.

3. There shall be a uniform system of education in all schools whether owned by or receiving aid from the appropriate Government or owned or run by private Non-Governmental Organizations or individuals or societies.

Uniform system of education in all schools.

4. It shall be the duty of the appropriate Government to provide to every student, upto senior secondary level, the following facilities, namely:—

Free, compulsory and uniform education to every student.

(a) uniform education;

(b) uniform hostel facility at higher secondary level;

(c) breakfast and mid-day meal free of cost;

(d) uniform, books and writing material free of cost; and

(e) scholarship of rupees three hundred per month at primary school level and rupees five hundred per month at secondary school level to economically weak students.

5. The appropriate Government shall establish and maintain adequate number of schools in every district in accordance with population and requirement of the area.

Establishment of schools in every district.

6. The appropriate Government shall not recognize, for any purpose, any academic certificate awarded by a school, which does not follow the uniform education.

Certificate not to be recognised.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not to be in derogation of any other law.

8. Notwithstanding anything contained in this Act, the provisions of this Act shall apply to minority institutions only if the management of such institutions convey to the appropriate Government their willingness to follow the uniform system of education.

Act to apply to minority educational institutions in certain situation.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

All parents or guardians have a dream of providing good education to their children. However, poverty stricken parents are not able to provide even the basic education to their children. On the other hand, children from rich families get very good quality education and can take up any responsibility in the society after they complete their education. It appears, therefore, that we have dual system of education—one for the rich and quite another for the poor.

Ours is a democratic country and every citizen of the country has equal rights. Thus, this dual nature of education system is not justifiable. There should be such an education system wherein all students, irrespective of their economic status, get uniform education so that they may enjoy equal opportunities in life.

Moreover, uniform system of education would also remove the feelings of discrimination, inferiority complex and denial of equal opportunities in matters of career advancement amongst students.

Therefore, it is proposed to provide for free and uniform education to all children in the country.

Hence this Bill.

NEW DELHI;
March 16, 2015.

RAKESH SINGH

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the appropriate Government shall provide free, compulsory and uniform education to every child from primary school level upto senior secondary school level. It further provides for facilities like breakfast and mid-day meal, uniform, books, etc. free of cost to all students and scholarships to economically poor students. Clause 5 provides that the appropriate Government shall establish and maintain adequate number of schools in every district. The expenditure relating to States shall be borne out of the Consolidated Funds of the respective States. However, the expenditure in respect of Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifteen crore will be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees eighteen crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 93 OF 2015

A Bill to provide for the establishment of a Permanent Bench of the High Court of Punjab and Haryana at Gurgaon.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. This Act may be called the High Court of Punjab and Haryana (Establishment of a permanent Bench at Gurgaon) Act, 2015.

Short title.

2. There shall be established a Permanent Bench of the High Court of Punjab and Haryana at Gurgaon and such Judges of the High Court of Punjab and Haryana, being not less than six in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Gurgaon in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Mewat, Faridabad, Palwal, Gurgaon, Rewari, Mahendragarh, Bhiwani, Jhajjar and Rohtak.

Establishment of a Permanent Bench of the High Court of Punjab and Haryana at Gurgaon.

STATEMENT OF OBJECTS AND REASONS

The High Court of Punjab and Haryana is located at Chandigarh and is looking after cases in areas covering both the States of Punjab and Haryana. A large number of cases arising in the State of Haryana are long pending in the High Court for decades and creating a lot of inconvenience to the litigants to pursue their cases. This is not only time consuming but also increases the cost and work burden in the existing High Court. For long, there has been a demand from the people of the State of Haryana that a permanent Bench of the High Court in the State of Haryana be established at Gurgaon.

If such a permanent Bench of the High Court is established at Gurgaon, it would be greatly helpful for the persons residing in the districts of Mewat, Faridabad, Palwal, Gurgaon, Rewari, Mahendragarh, Bhiwani, Jhajjar and Rohtak in the State of Haryana besides reducing the burden of the existing High Court of Punjab and Haryana. Further, speedy disposal of long pending cases would be possible in case such a permanent Bench of the High Court of Punjab and Haryana is established at Gurgaon in the State of Haryana.

Hence this Bill.

NEW DELHI;
February, 16, 2015.

DUSHYANT CHAUTALA

BILL NO. 94 OF 2015

A Bill to provide for the constitution of a National Commission for Farmers for their welfare and overall development and for matters connected therewith.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Commission for Farmers Act, 2015.
- (2) It extends to the whole of India.

Short title,
extent and
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(i) "Commission" means the National Commission for Farmers constituted under section 3;

(ii) "farmer" means any person who cultivates land or causes it to be cultivated for agricultural or horticultural purposes; and

(iii) "prescribed" means prescribed by rules made under this Act.

National
Commission
for Farmers.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Commission to be known as the National Commission for Farmers.

(2) The Commission shall consist of—

(i) a Chairperson having special knowledge in the field of agriculture, to be appointed by the Central Government; and

(ii) such number of other members having such qualification as may be prescribed.

(3) The salary and allowances payable to and other terms and conditions of service of the Chairperson and other members of the Commission shall be such as may be prescribed.

Central
Government to
provide
officers and
staff for the
Commission.

4. The Central Government shall make available such number of officers and staff including experts to the Commission as may be required for its efficient functioning.

Functions of
the
Commission.

5. The Commission shall—

(i) formulate a national policy for the overall development of farmers in the country;

(ii) formulate schemes and programmes for the welfare of farmers particularly those living in drought prone areas and other areas prone to natural calamities;

(iii) take effective steps for formulation and implementation of schemes for the welfare of farmers; and

(iv) undertake such other functions as may be assigned to it by the Central Government.

Farmers
Development
Fund.

6. (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Farmers Development Fund.

(2) The Central Government and State Governments shall contribute to the fund in such ratio as may be prescribed.

Power to make
rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Agriculture is the backbone of Indian economy, as it is a major contributor to the gross domestic product (GDP) of our country and seventy percent of our population is dependent on this sector for its livelihood. Agriculture is also important as it ensures food security and is a major source of raw materials for the industrial sector. However, in the recent years this vital sector of our economy has remained neglected. Farmers have borne the brunt of this neglect and it has resulted in a spate of suicides by farmers across the country. The major reason of this being indebtedness, crop failure, poor quality of seeds, spurious pesticides, plant diseases and natural calamities like floods, drought, hailstorms, frosts etc. On the other hand even if there is a bumper crop, farmers fail to get remunerative price on account of shortcomings of and irregularities committed by State procurement agencies. There are also several infrastructural constraints in storage, distribution and marketing of agricultural produce. At present there is no Government policy comprehensively addressing the hardships faced by the farmers. Although both the Central and State Governments spend huge sums every year to compensate farmers by way of relief, such measures have remained inadequate, primarily due to lack of coordinate efforts on part of the States and Union Government. Consequently the plight of farmers in the country has remained largely unaddressed. Thus, there is need to provide due security and protection to farmers. The Bill seeks to establish a National Commission for Farmers. While the Commission is to function in general for the protection, benefit and welfare of the farmers, it shall also formulate schemes for the benefit and welfare of the farmers. This measure would have considerable and positive impact on the economic progress of the country in general and the agricultural sector in particular.

Hence this Bill.

NEW DELHI;
February 23, 2015.

DEVJIM. PATEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Commission for Farmers. Clause 4 provides that the Central Government shall make available necessary officers and staff for the efficient functioning of the Commission. Clause 6 provides for the constitution of a Farmers Development Fund. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees two hundred crore will be involved.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 88 OF 2015

A Bill to provide for establishment of a Fodder Warehouse Board for making available fodder and water to animals in places affected by natural calamities like famine, drought or flood and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title,
extent
and
commencement.

1. (1) This Act may be called the Fodder Warehouse Board Act, 2015.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "animal" means domestic animals which consume fodder;

(b) "Board" means Fodder Warehouse Board established under section 3;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "warehouse" means any premise (including any protected place) used for storage of fodder under controlled conditions of temperature and humidity.

3. (1) The Central Government shall, within a period of three months from the date of coming into force of this Act, establish a Board to be known as the Fodder Warehouse Board with its headquarter at Jalore in the State of Rajasthan.

Establishment
of Fodder
Warehouse
Board.

(2) The Board shall consist of a Chairperson and four other members to be appointed by the Central Government.

(3) The Board shall manage the affairs of the Fodder Warehouses.

(4) The Central Government shall establish a branch of the Board in every district of the country.

(5) Every branch of the Board shall consist of a General Manager and such other officers and staff as may be required.

(6) The terms and conditions of service and appointment, salaries and allowances of Chairperson, members and employees of the Board shall be such as may be prescribed.

4. The Board shall—

Functions of
Fodder
Warehouse
Board.

(i) establish fodder warehouses in every district;

(ii) purchase fodder from farmers at such rate, as it may deem fit;

(iii) provide facility for transportation of fodder from the fodder store house to places affected by famine, drought, flood or any other natural calamities;

(iv) acquire land, in consultation with the State Government, for cultivation of fodder in order to enhance the availability of fodder in famine, drought or flood prone areas;

(v) ensure availability of fodder and drinking water for animals free of cost in places affected by famine, drought, flood or any other natural calamities;

(vi) encourage research in collaboration with agricultural research institutions and universities for cultivation of better quality of fodder; and

(vii) collect data of animals reared in every village and prepare exigency plan to supply fodder and drinking water to animals in places affected by famine, drought, flood or any other natural calamities.

5. (1) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Fodder Fund with an initial corpus of rupees one thousand crore.

Constitution
of Fodder
Fund.

(2) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

(3) The Fund shall be administered by the Fodder Warehouse Board constituted under section 3.

(4) The Fund shall be utilized to produce, procure or collect and store fodder and to provide fodder and drinking water to animals in places affected by natural calamities.

6. (1) Any person who requires fodder shall inform the branch office of the Fodder Warehouse Board in the district about the requirement of fodder, in such manner, as may be prescribed.

Supply of
fodder.

(2) The branch office concerned shall, on receipt of requirement under sub-section (1), supply the requisite quantity of fodder to such person within a period of two days.

Publicity to
the provisions
of the Act.

7. The Central Government shall give wide publicity to the provisions of this Act in such manner as may be prescribed.

Power to
make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Natural calamities such as famine, drought and floods result in heavy loss of human lives and property including loss of livestock. Due to the priority given to save the lives of people, it becomes very difficult to save lives of animals. In such situations, to save the livestock and make available sufficient fodder for animals become the main requirements. However, the transportation of fodder and drinking water to the affected areas is not an easy task. Therefore, it is necessary to evolve a mechanism so that fodder and water is made available in places affected by natural calamities.

Due to increase in the population of the country, the area under agriculture is decreasing. The availability of fodder is also continuously decreasing due to harvesting of new varieties of crops in place of traditional crops. There is a need for intervention on the part of the State to take cognizance of shortage of fodder and drinking water for animals particularly during natural calamities and to address the problem being faced by lakhs of farmers and others in rural areas across the country on this account.

In the absence of any exigency plan to meet the demands of fodder and drinking water during natural calamities, the farmers and animal rearers are compelled to sell their livestock at throw away prices to meat-vendors which results in mental agony and heavy financial loss to them.

The Bill, therefore, seeks to provide for establishment of a Fodder Warehouse Board to produce, procure, collect and store and distribute fodder and drinking water for animals in places affected by natural calamities.

Hence this Bill.

NEW DELHI;
February 23, 2015.

DEVJIM. PATEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of a Fodder Warehouse Board. Clause 4 provides for establishment of fodder warehouses, facilities of transportation of fodder and drinking water for animals during natural calamities, collection of data of animals and preparation of exigency plan, etc. by the Fodder Warehouse Board. Clause 5 provides for constitution of a Fodder Fund with initial corpus of rupees one thousand crore. Clause 7 provides for giving wide publicity to the provisions of the Act.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve recurring expenditure of rupees one thousand five hundred crore per annum.

A non-recurring expenditure of two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 101 OF 2015

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 2015.

Amendment
of the
Schedule.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part XXII.—
Jharkhand, existing entries 9 to 32 shall be re-numbered as entries 10 to 33, respectively, and
before entry 10 as so re-numbered, the following entry shall be inserted, namely:—

C.O. 22.

"9. Biyar".

STATEMENT OF OBJECTS AND REASONS

Jharkhand is predominantly a tribal State. Due to its tribal identity a campaign was launched for formation of a separate State of Jharkhand, which ultimately proved to be successful. The people belonging to Biyar community live in Garhwa district of Jharkhand State. The people belonging to this community are very poor and have got the status of the Scheduled Tribe in the States of Chhattisgarh and Madhya Pradesh. However, this community has not been included in the List of Scheduled Tribes in respect of the State of Jharkhand. Therefore, the 'Biyar' community is required to be included in the list of Scheduled Tribes of the State of Jharkhand so that persons belonging to this community may also avail the benefits of reservation which are being enjoyed by persons belonging to other Scheduled Tribes in the State.

Hence this Bill.

NEW DELHI;
February 23, 2015.

VISHNU DAYAL RAM

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for inclusion of Biyar tribe of Jharkhand in the list of the Scheduled Tribes. The Bill, if enacted, will involve recurring and non-recurring expenditure from the Consolidated Fund of India on account of benefits to be given to the people belonging to this tribe under the central schemes being run for the welfare of Scheduled Tribes.

At this stage, it is not possible to mention the exact amount to be incurred from the Consolidated Fund of India. However, it is estimated that a recurring expenditure of about rupees ten crore will be involved per annum.

No non-recurring expenditure is likely to be involved.

BILL NO. 117 OF 2015

A Bill further to amend the Constitution (Scheduled Castes) Order, 1950

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title. **1.** This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 2015.

Definitions. **2.** In the schedule to the Constitution (Scheduled Castes) Order, 1950, in Part XVIII. - C.O. 19 of 1950.
Uttar Pradesh, —

(i) for entry 18, the following entry shall be substituted, namely,—

"18. Beldar, Bind";

(ii) for entry 36, the following entry shall be substituted, namely,—

"36. Gond, Goud, Godiya, Kahar, Kashyap, Batham";

(iii) for entry 53, the following entry shall be substituted, namely,—

"53. Majhwar, Kewat, Mallah, Nishad";

(iv) for entry 59, the following entry shall be substituted, namely,—

"59. Pasi, Tarmali, Bhar, Rajbhar";

(v) for entry 65, the following entry shall be substituted, namely,—

"65. Shilpkar, Kumhar, Prajapati"; and

(vi) for entry 66, the following entry shall be substituted, namely,—

"66. Turaiha, Dheemar, Dheedar, Turaha, Turha".

STATEMENT OF OBJECTS AND REASONS

Uttar Pradesh is a State having the largest population in the country. There are certain castes in the State which are equally backward in all spheres as the Scheduled Castes in the State. A large number of people belonging to castes like Bind, Bhar, Rajbhar, Gaud, Kashyap, Kabar, Godiya, Batham, Bheedar, Dheemar, Mallah, Kewat, Nishad, Kumhar, Prajapati and Turha reside in the State. According to the survey/study reports of the Institute of Research and Training for Scheduled Castes and Scheduled Tribes, Uttar Pradesh, it has come to light that untouchability as a traditional practice is still prevalent in the above-mentioned sub-castes. In view of inter-caste marriages, life style, profession, customs and the traditions, the above mentioned sub-castes are similar to Beldar, Goud, Manjhar, Pasi, Tarmali, Shilpkar, Turaiha and are synonyms of the recognized castes.

Hon'ble Supreme Court in the case *Bhaiya Ram Munda V/s Anirudh Patar*, AIR, 1971, has ordered for inclusion of various castes of Mahua community which have been left out earlier in the list of Scheduled Castes. However, they have not been included in the list of Scheduled Castes in the State of Uttar Pradesh till date despite their pitiable, social, economic and educational conditions. The people belonging to these sub-castes, are availing the benefits of reservation in many States other than Uttar Pradesh. Therefore, the people belonging to the aforesaid sub-castes should be extended the benefits of reservation in Uttar Pradesh also. The Government of the State of Uttar Pradesh has made requests to this effect in the year 2004, 2006, 2007 and finally on 15th February, 2013 for inclusion of these castes in the list of Scheduled Castes. In spite of the fact that these are synonymous castes and fulfil all requisite criteria for being included in the list of the Scheduled Castes, the Union Government has not taken any action in this regard till date.

Hence, these castes need to be included in the list of Scheduled Castes in respect of the State of Uttar Pradesh to secure justice to persons belonging to these castes.

The Bill seeks to achieve the above objectives.

NEW DELHI;
February 24, 2015.

HARI NARAYAN RAJBHAR

FINANCIAL MEMORANDUM

The Bill seeks to include certain castes in the list of Scheduled Castes in respect of the State of Uttar Pradesh because of their social, educational and economic backwardness. The Bill, therefore, if enacted, would involve recurring and non-recurring expenditure on account of benefits to be provided to the persons belonging to these communities under continuing schemes meant for development of the Scheduled Castes from the Consolidated Fund of India. At this Stage, it is not possible to give the exact amount to be incurred on this account. However, it is estimated that a sum of approximately rupees one thousand crore would be involved as a recurring expenditure per annum.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

BILL NO. 116 OF 2015

A Bill to provide for, in the interests of protecting individual liberty and preventing victimisation, prohibition of unlawful assemblies and other conduct interfering with the freedom of matrimonial alliances in the name of honour and tradition and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Prohibition of Interference with the Freedom of Matrimonial Alliances in the Name of Honour and Tradition and Act, 2015.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different States.

2. (1) For the removal of doubts, it is hereby declared that every person shall have a right to marry or stay with a person of his choice.

Declaration as to rights of persons.

(2) Any violation of the right referred to in sub-section (1) by any person or a group of persons shall be an offence under this Act.

(3) No person or any group of persons shall gather, assemble or congregate at any time with the view or intention of condemning any marriage, not prohibited by law, on the basis that such marriage has dishonoured the caste or community tradition or brought disrepute to all or any of the person forming part of the assembly or the family or the people of the locality concerned.

(4) Such gathering or assembly or congregation shall be treated as unlawful and every person convening or organizing such assembly and every member thereof participating therein, directly or indirectly, shall be punished with imprisonment for a term of not less than six months but which may extend to one year and shall also be liable to fine which may extend upto ten thousand rupees.

Explanation.—In this section, the expression—

(i) 'marriage' shall include a proposed or intended marriage; and

(ii) 'gather', 'assemble' or 'congregate' shall include acting in concert through the use of any technological means or mediums.

3.(1) The members of unlawful assembly referred in section 2, who, individually or collectively, counsel, exhort or bring pressure, openly or otherwise, upon any person or persons to prevent or disapprove the marriage, which is objected to by the said members, or to generate an environment of hostility towards the married couple or a couple who intends to marry or either of them or their relatives or supporters shall be deemed to have acted in endangerment of their liberty and such an act of endangerment shall be punished with imprisonment for a period of not less than one year but which may extend upto two years and shall also be liable to fine which may extend upto twenty thousand rupees.

Intent to cause endangerment of liberty.

(2) Any person, other than the members of unlawful assembly, who endangers the liberty under sub-section (1) at the instance of any member of unlawful assembly or otherwise shall be punished with imprisonment for a period of not less than one year but which may extend upto two years and shall also be liable to fine which may extend upto twenty thousand rupees.

Explanation.—In this section, the expression 'endangerment of liberty' shall include the acts calculated to lead to social boycott or enforcement of social sanctions and in particular the following acts,—

(i) bringing to bear pressure on the couple or their family or relatives to leave the village or area of residence concerned;

(ii) indulging in any conduct which impedes or is likely to impede, access to markets, community facilities, places of worship or any other necessities of life or which imposes any social or economic sanction or social boycott on the couple or their family or anyone associated with them;

(iii) divesting or dispossessing the couple or their family of any land or property belonging to them;

(iv) declaring the couple, who have married or intend to lawfully marry, a brother and sister, provided that they are not children from the same natural parent and such marriages are reorganised by any law or custom for the time being in force;

(v) asking the couple who have married or intend to lawfully marry, or anyone associated with them or harbouring them to pay a fine;

(vi) causing harm or injury to the couple or either of them or their families or anyone connected with them for harbouring them; and

(vii) any other act of harassment whether physical or mental.

(3) If any person or a group of persons, who is or are members of the family of the couple, who has married or intends to marry, or a person or persons acting in concert with, or, at the behest of, a member of the family or a member of unlawful assembly, kills a woman of the who has married or intends to marry, or kills the person whom the woman has married or intends to marry or kills any person associating with couple or causes grievous hurt or any form of injury or persecutes the couple or either of them for exercising the rights referred to in section 2, or abets, participates or incites such an act of killing or causing grievous hurt or any form of injury or persecution, shall be guilty of an offence of murder under the Indian Penal Code, 1860.

45 of 1860.

Criminal
intimidation.

4. Any member or members of an unlawful assembly or any other person acting at their instance or otherwise who, indulges in criminal intimidation of the couple or either of them or their relatives or supporters shall be punished with imprisonment for a term which shall not be less than one year but may extend to three years and be liable to fine.

Explanation.—The expression 'criminal intimidation' includes repeated harassment of the couple or either of them with a view to pressurising them not to meet or associate with each other or live with each other or threatening the couple or either of them or their family or anyone associated with them of retributive action of any kind whatsoever.

Provisions of
this Act not
in derogation
of any other
law.

5. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Burden of
Proof.

6. Where any person is prosecuted for an offence under this Act, the burden of proving that he has not committed the offence shall be on the person being prosecuted.

Power to
prohibit
certain acts
and authority
to take
preventive
measures.

7. (1) The District Magistrate or Sub-Divisional Magistrate shall receive any request or information from any person or persons seeking protection from any assembly of persons or from members of any family who are objecting or likely to object to any lawful marriage.

(2) Where the District Magistrate or Sub-Divisional Magistrate receives information from any source that there is a likelihood of convening of an assembly openly or in secrecy to condemn as objectionable any marriage, proposed or solemnized, he shall, by order prohibit the convening of such assembly and doing of any act towards the commission of any offence under this Act by any person in any area specified in the order.

(3) The District Magistrate or Sub-Divisional Magistrate may take such steps as may be necessary to give effect to such order including giving appropriate directions to the police authorities concerned.

(4) The District Magistrate or Sub-Divisional Magistrate shall also take such steps as may be necessary to ensure the safety of the persons targeted pursuant to the illegal decision taken by the unlawful assembly.

(5) Any two persons who intend to marry or associate with each other may declare their age and willingness to marry or associate, orally or in writing, before any Government official, who shall, on receipt of such information, inform the nearest Police Station.

(6) The District Magistrate or the Sub-Divisional Magistrate shall be in direct supervision of the protection and safety of the persons concerned.

(7) Every village officer and such other officers as may be designated by the District Magistrate in relation to any area shall, if he has reason to believe or has the knowledge that any of the offences under this Act are likely to be or have been committed in the area, report such fact to the nearest Police Station.

(8) Every official called upon to act in terms of the above provisions shall be accountable for their lapses, omissions or failures and the State Government shall provide for and take such action against them as may be deemed fit for their lapses, omissions or failures to act.

2 of 1974.

8. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be triable by a Court of Sessions presided over by the District and Session Judge or any other Sessions Court presided over by a Session Judge or an Additional Sessions Judge in the district concerned, as may be specified by the High Court by notification.

Trial of offences.

(2) The Court of Sessions so notified may take cognizance of any offence without the accused being committed to it for trial upon receiving a complaint of facts which constitutes such offence, or upon a police report of such facts.

2 of 1974.

9. (1) When trying any offence under this Act, the notified Court of Sessions may also try any other offence with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial if the offence is connected with such other offence.

Power of Special Court with respect to other offences.

(2) If, in the course of any trial of any offence under this Act, it is found that accused person has committed any other offence under this Act or any other law, the notified Court may convict such person also of such other offence and pass appropriate sentence authorized by that law.

2 of 1974.

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be cognizable, non-bailable and non-compoundable.

Offences to be cognizable, non-bailable and non-compoundable.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There has been an increase number of crimes being incited by and committed by certain groups of persons or certain individuals, in order to interfere with otherwise completely lawful matrimonial alliances, in the name of protecting honour and tradition. These groups or individuals often target 'sagotra', inter-caste and inter-religious alliances between consenting adults as a part of their prejudiced agenda. These alliances are completely legal under various Indian laws such as the Hindu Marriage Disabilities Removal Act, 1946 and the Special Marriage Act, 1954. However, such acts of mental and physical violence are also in direct violation of certain fundamental rights of citizens enshrined in the Constitution, such as the Right to Life and Liberty which includes the right to bodily integrity, and the right to choose whom to marry or associate with.

The general provisions of the Indian Penal Code, 1860 are invoked to book offenders in honour killing cases which do not cover the entire gamut of illegal and criminal actions perpetrated in the name of honour and tradition.

In August 2010, the National Commission for Women suggested a draft legislation to amend section 300 of the Indian Penal Code, 1860 with a view to include Honour Killing as gruesome offence.

The Law Commission of India in its Report No. 242 has recommended legal measures to nip the evil in the bud by preventing assemblies which take place to condemn such alliances and to prescribe *moiré severe* punishment for violent acts of criminal intimidation or acts imperilling the liberty of individual in the name of honour and tradition.

The increase in number of such crimes has been a matter of grave concern for the society and requires to be addressed urgently.

The Bill, therefore, seeks to provide for protecting individual liberty and preventing victimisation, prohibition of unlawful assemblies and other conduct interfering with the freedom of matrimonial alliances in the name of honour and tradition.

NEW DELHI ;
February 23, 2015.

RABINDRA KUMAR JENA

BILL NO. 95 OF 2015

A Bill further to amend the Special Marriage Act, 1954.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Marriage (Amendment) Act, 1954.

Short title and
commencement.

(2) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

2. In section 5 of the Special Marriage Act, 1954, for the words “has resided for a period of not less than thirty days”, the words, “is residing” shall be substituted.

Amendment of
section 5.

STATEMENT OF OBJECTS AND REASONS

Section 5 of the Special Marriage Act, 1954 prescribes for notice of intended marriage to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given. However, such procedural formality is being misused by unlawful groups or individuals in order to interfere with marriages in the name of 'honour' and 'tradition'.

In order to curb the crimes committed in name of honour killing, the National Commission for Women in its 2010 draft legislation 'The Prevention of Crimes in the Name of Honour and Traditions Bill, 2010' and the Law Commission of India, in its Report No. 242, 'Prevention of Interference with the Freedom of Matrimonial Alliances (in the name of Honour and Tradition): A Suggested Legal Framework', August 2012, have recommended an amendment in the Special Marriage Act, 1954, for removing the condition of residency of minimum thirty days from the date of giving notice of marriage, as this gives the groups or individuals an opportunity to interfere with the alliance.

The Bill, therefore, seeks to amend section 5 of the Special Marriage Act, 1954 with a view to remove the unnecessary requirement of 'period of notice' and 'domical residence' so as to protect the victims or potential victims from the menace of honour killing.

Hence this Bill.

NEW DELHI;
February 24, 2015

RABINDRA KUMAR JENA

BILL NO. 109 OF 2015

A Bill to provide for social security to transgender persons and for matters connected therewith.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Transgender Persons (Provision of Social Security) Act, 2015.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Fund" means the Transgender Persons Welfare Fund constituted under section 4;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "transgender person" means a person, whose gender does not match with the gender assigned to that person at birth and includes trans-men and trans-women (whether or not they have undergone sex reassignment surgery or hormone therapy or laser therapy), gender-queers and persons having socio-cultural identities such as *kinnars*, *hijras*, *aravanis* or *jogtas*.

Appropriate Government to designate a nodal officer in every district.

3. (1) The appropriate Government shall designate a nodal officer not below the rank of District Collector in every district to compile the details of all transgender persons residing within his jurisdiction.

(2) It shall be the duty of every nodal officer,—

(a) to forward in such manner and form, as may be prescribed, to the State Government concerned the details of transgender persons residing in his jurisdiction; and

(b) to take up the issues of social, economic and other forms of discrimination against transgender persons residing in his jurisdiction with the appropriate authorities.

Constitution of the Transgender Persons Welfare Fund.

4. (1) The Central Government shall constitute a Fund to be known as the Transgender Persons Welfare Fund for providing social security to transgender persons.

(2) The Central Government and State Governments shall contribute to the Fund in such ratio as may be prescribed.

(3) The Fund shall be administered by a Board consisting of—

(a) one eminent person having special knowledge or practical experience in the field of transgender rights and rehabilitation — Chairperson;

(b) one representative of each of the State Government — Members; and

(c) two transgender persons — Members,

to be appointed by the Central Government in such manner as may be prescribed.

(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson and members of the Board shall be such as may be prescribed.

(5) The Central Government shall provide such number of officers and staff to the Board as may be required for its efficient functioning.

(6) The salary and allowances payable to and other terms and conditions of service of the officers and staff of the Board shall be such as may be prescribed.

Functions of the Board.

5. (1) The Board shall—

(a) study the problems being faced by the transgender persons and suggest remedial measures to the appropriate Government;

(b) make recommendations to the appropriate Government regarding formulation of a welfare policy for transgender persons; and

(c) promote awareness about the rights of the transgender persons and safeguards available for their protection.

(2) The Board shall utilize the Fund, for providing the following facilities to transgender persons, namely:—

(a) payment of old age pension at the rate of rupees five thousand per month after the age of sixty years;

(b) free healthcare facilities;

(c) free insurance cover; and

(d) housing facilities free of cost.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purpose of this Act.

Central Government to provide funds.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

8. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purpose of this act.

Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before the House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modifications in the rule or both the Houses agree that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however that any such modification or annulment shall be 'without prejudice to the validity of anything previously done under the rule.

STATEMENT OF OBJECTS AND REASONS

Transgender people in our country are the most vulnerable community facing a variety of issues. They do not have any respect from the society and are frequently discriminated. In short, they are deprived of the fundamental rights available to the other two sexes *i.e.* male and female, and are not considered as the third sex. They do not have regular means of livelihood. Most of them are engaged in begging, singing, dancing and working, as sex workers. Their conditions are pathetic particularly in old age when they become unable to earn their livelihood. The attitude of society towards transgender persons is discriminatory. It is, therefore, necessary to provide certain welfare measures for transgender persons by the Government.

Hence this Bill.

NEW DELHI;
February 27, 2015.

MAHEISH GIRRI

PRESIDENT'S RECOMMENDATION UNDER ARTICLE
117(3) OF THE CONSTITUTION

[Copy of letter No. 13011/5(16)/2014-DP. III (TG) dated 7 April, 2015 from Shri Thaawarchand Gehlot, Minister of Social Justice and Empowerment to the Secretary General, Lok Sabha.]

The President, having been informed of the subject matter of the Transgender Persons (Provision of Social Security) Bill, 2015 by Shri Maheish Girri, M.P., recommends to the House the consideration of the Bill under article 117(3) of the Constitution.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of a Transgender Persons Welfare Fund. It further provides for constitution of a Board to administer the welfare Fund. Clause 5 provides for certain facilities to transgender persons. Clause 6 provides that the Central Government shall provide adequate funds to State Governments for carrying the purposes of the Bill. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 104 OF 2015

A Bill to provide for prevention of begging and rehabilitation of beggars in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title
and extent.

1. (1) This Act may be called the Prevention of Begging and Rehabilitation of Beggars Act, 2015.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases the Central Government;

(b) "beggar" means any person who indulges in begging at public places or go from door to door to solicit alms;

(c) "child" means a boy or girl who is below the age of eighteen years;

(d) "fund" means the Rehabilitation Fund constituted under section 4; and

(e) "prescribed" means prescribed by rules made under this Act.

3. (1) Notwithstanding anything contained in any law for the time being in force, the Central Government shall, as soon as may be, by notification in Official Gazette, formulate a national action plan for the prevention of begging and rehabilitation of beggars.

National action plan for prevention of begging and rehabilitation of beggars.

(2) The national action plan referred to in sub-section (1) shall include the following provisions—

(a) collection of exact and authentic data of the number of beggars in the country;

(b) setting up of Task Forces in every district of the country, in consultation with the appropriate Government, to identify the persons indulged in begging at various places and take steps for their rehabilitation;

(c) constitution of an advisory team in association with the stakeholders and the persons having knowledge and expertise in the field of social welfare and prepare a rehabilitation action plan on the basis of recommendations made by the advisory team;

(d) formulation of various welfare schemes for the rehabilitation of beggars including construction of rehabilitation homes; and

(e) concrete proposals for the prevention of begging.

4. (1) The Central Government shall constitute a Rehabilitation Fund for the rehabilitation of beggars with an initial corpus of rupees one thousand crore.

Constitution of the Rehabilitation Fund for rehabilitation of beggars.

(2) A rehabilitation home shall function in every district with the aid of the Rehabilitation Fund.

(3) The Fund shall be used for providing following facilities in the rehabilitation homes—

(i) free educational facilities to the dependent children of beggars;

(ii) free facilities for vocational training and adult literacy to the beggars;

(iii) employment facilitation center for inmates who have received vocational training; and

(iv) free medical facilities.

45 of 1860.

5. Notwithstanding anything contained in the Indian Penal Code, 1860 or any other law for the time being in force, whoever forces any child into begging shall be punished with imprisonment for a term which shall not be less than four years but which may extend to seven years and also with fine which may extend to rupees five lakh.

Penalty.

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Overriding effect of the Act.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Despite all efforts made and welfare measures taken by the Central Government and State Governments, the practice of begging continues unabated all over the country. This practice is very much prevalent especially in the metropolitan cities and urban centers. There are organized gangs who exploit innocent children and force them into begging for gathering alms for the gang leaders and organizers.

Prevention of begging has to go along with programmes for education, vocational training and rehabilitation of the children, women and men found engaged in begging. In addition, some alternative sources of livelihood should be made available to the beggars.

Therefore, it is high time that a law for prevention of begging be brought forward and other alternative sources of livelihood be made available to these under-privileged people.

Hence this Bill.

NEW DELHI;
March 3, 2015.

KIRIT PREMJBHAI SOLANKI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for a national action plan for prevention of begging and rehabilitation of beggars. Clause 4 provides for constitution of a Rehabilitation Fund for rehabilitation of beggars. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five hundred crore is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 115 OF 2015

A Bill to provide for the constitution of a National Commission for Farmers' Income and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the National Commission for Farmers' Income Act, 2015.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) 'Commission' means the National Commission for Farmers' Income constituted under Section 3;

(b) 'farmer' means a person who owns land and cultivates or causes it to be cultivated for agricultural or horticulture purposes and has no income from any source other than agriculture or horticulture;

(c) 'member' means a Member of the Commission and includes the Member-Secretary; and

(d) 'prescribed' means prescribed by rules made under this Act.

CHAPTER II

THE NATIONAL COMMISSION FOR FARMERS' INCOME

3. (1) The Central Government shall constitute a Commission to be known as the National Commission for Farmers' Income to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

Constitution of the National Commission for Farmers' Income.

(2) The Commission shall consist of—

(a) a Chairperson, committed to the cause of farmers livelihood, to be nominated by the Central Government;

(b) five members to be nominated by the Central Government from amongst persons of ability, integrity and standing who had had experience in agriculture, social justice, law or legislation committed to ensuring the livelihood through growth in income of farmers:

Provided that at least one member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes, respectively;

(c) A Member-Secretary to be nominated by the Central Government, who shall be—

(i) an expert in the field of management, organizational structure on agricultural issues, or

(ii) an officer who is a member of a civil service of the Union or of an All-India Service or holds a civil post under the Union with appropriate experience.

4. (1) The Chairperson and every member shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf.

Term of Office and conditions of service of Chairperson and members.

(2) The Chairperson or a member (other than the Member-Secretary who is a member of a Civil Service of the Union or of an All-India Service or holds a Civil post under the Union) may, by writing and addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of the member at any time.

(3) The Central Government shall remove a person from the office of Chairperson or a member referred to in sub-section (2) if that person—

(a) becomes an undercharged insolvent;

(b) gets convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;

(c) becomes of unsound mind and stands so declared by a competent court;

(d) refuses to act or becomes incapable of acting;

(e) is without taking leave from the Commission, absent from three consecutive meetings of the Commission; and

(f) in the opinion of the Central Government has so abused the position of Chairperson or member so as to render his continuance detrimental to public interest:

Provided that no person shall be removed under this clause until that person has been given an opportunity of being heard in the matter.

(4) A vacancy caused under sub-section (3), shall be filled within one month from the date on which the vacancy has been created.

(5) The salaries and allowances payable to, and other terms and conditions of service of the Chairperson and members shall be such as may be prescribed.

Officers and employees of the Commission.

5. (1) The Central Government shall provide suitable officers and employees to the Commission for its efficient performance under this Act.

(2) The salaries and allowances payable to, and other terms and conditions of service of officers and employees shall be such as may be prescribed.

Salaries and allowances to be paid out of grants.

6. The salaries and allowances payable to the Chairperson and the members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 11.

Vacancies not to invalidate proceedings of the Commission.

7. No Act or proceeding of the Commission shall not be questioned or shall be invalid on the grounds merely of existence of any vacancy or defect in the constitution of the Commission.

Committees of the Commission.

8. (1) The Commission may appoint Committees as may be necessary for dealing with or studying issues that may be taken up by the Commission from time to time;

(2) The Commission may appoint Members, as it may deem fit, on such Committees under this sub-section, provided that, the members of the Committee who are not members of the Commission shall not have the right to vote on matters of the Commission;

(3) The allowances payable to members appointed to the Committees shall be such as may be prescribed.

Procedure to be regulated by the Government.

9. (1) The Commission or a Committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure and the procedure of the Committees thereof.

(3) All orders and decision of the Commission shall be authenticated by the Member-Secretary.

CHAPTER III

FUNCTIONS OF THE COMMISSION

Functions of the Commission.

10. (1) The Commission shall perform all or any of the following functions, namely—

(a) undertake annual income surveys of farmers across various categories, including different crops and landholding sizes;

(b) make policy suggestions to ensure that minimum income accrues to farmers across various categories;

(c) design periodically an income security framework for various categories of farmers, *inter-alia* including market interventions, compensation, subsidies, reduction in cost of production, mechanization, capacity building, credit enhancement, strengthening supply chains or any other tool that the Commission deems fit;

(d) review, from time to time, various schemes of the Central Government pertaining to agriculture and income of farmers;

(e) make recommendations to Central Government for effective implementation of policies and schemes ensuring that the minimum income accrues to farmers.

(f) call for special studies and investigations into problems arising out of agrarian distress, and make timely recommendations to the Central Government for appropriate action.

(g) undertake promotional and educational research to ensure minimum incomes for farming households, enhancement of income of farmers and productivity in agriculture.

(h) take *suo-moto* notice of matters relating to—

(i) farmer distress and particularly, farmer suicides across the country;

(ii) non-implementation or poor implementation of policies or schemes of farmers; and

(iii) non-compliance of policy decisions, guidelines and instructions taken for farmers.

(i) evaluate the status of livelihood of farmers across various regions in the country;

(j) make periodic reports to the Government on any matters pertaining to farmers; and

(k) take up any other matter that may be referred to it by Central Government.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

11. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf provide to the Commission by way of grants such sums of money as the Central Government may think fit for being utilized for the purpose of this Act.

Grants by
Central
Government.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of grants under sub-section (1).

12. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by Central Government in consultation with Comptroller and Auditor-General of India.

Accounts and
Audit.

(2) The accounts of the Commission shall be audited by Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable to Comptroller and Auditor-General of India.

(3) The accounts of the Commission, as certified by the Comptroller and Auditor-General along with the audit report shall be forwarded annually to the Central Government by the Commission.

13. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the financial year and forward a copy thereof to the Central Government.

Annual
Report.

14. The Central Government shall cause the annual report along with a memorandum of actions taken on recommendations and reasons for non-acceptance of recommendations, if any, of any such recommendations to be laid, as soon as may be, after the reports are received, and the audit report before each House of Parliament.

Annual report
and audit
report to be
laid before
Parliament.

CHAPTER V

MISCELLANEOUS

15. The Chairperson, the Members, Officers and the other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Chairperson,
members and
staff of the
Commission
to be public
servants.

Central
Government
to consult
Commission.

16. The Central Government shall consult the Commission on all major policy matters affecting farmers.

Power to
make rules.

17. (1) The Central Government may by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

(a) salaries, allowances and terms and conditions of service of Chairperson and members under sub-section (5) of section 4 and other employees and officers under sub-section (2) of Section 5.

(b) allowances paid to members appointed to Committees under sub-section (3) of section 8.

(c) other matters under sub-section 3 of section 4 on the basis of which the Central Government can remove a Chairperson or member from the Commission.

(d) the form, and timeline as per which the annual statements of accounts shall be maintained under section 12.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive session and if before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Even today, the issue of suicides by farmers continues to plague our country. As per the National Crime Records Bureau (NCRB), from 1995 to 2012, in a period of 18 years, 2.85 lakh farmers have committed suicide in India. In 2012 and 2013 alone, 13,754 and 11,772 farmers have committed suicide. High indebtedness and low agricultural earnings have been a prime cause of farmer suicides. As per the NSSO, 70th round survey (January 2013-December 2013), an average farm household earns less than rupees sixth thousand and five hundred per month. Those with small and marginal land holdings are earning even lower income from agriculture. To generate sufficient income, these farmers have to depend on alternative employment for their livelihood. In addition to this, about 52% of agricultural households across the country are estimated to be indebted, this percentage being as high as 92.9% in State of Andhra Pradesh.

On account of such extreme farmer distress, the National Farmers Commission under the Chairmanship of Prof. M.S. Swaminathan in its report had pointed out that "Success in agricultural progress should be measured by the growth of farmers' incomes and not just by production figures". As echoed by the Commission, for sustainability of agriculture, farmers' income and livelihood must be the focal point of policy framing in agriculture.

In pursuance of this objective, the Bill seeks to establish a National Commission for Farmers' Income. Among other things, the Commission shall undertake annual surveys and studies to bridge the data gap that exists on farmers, income, survey and study farmers income across crops, landholding sizes and regions and guide policies of the Government towards ensuring minimum and fair income to the farmers.

Hence this Bill.

NEW DELHI;
March 3, 2015.

R. DHROUVANARAYANA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of the National Commission for Farmers' Income. Clause 6 provides for salaries and allowances to be paid to the Chairperson and members of the Commission. Clause 8 provides for appointment of Committees to deal with or study issues that may be taken by the Commission. Clause 9 provides for meetings of the Commission and Committees. Clause 11 provides that the Central Government shall provide funds to the Commission. Clause 12 provides for payment of expenditure incurred on audit of the Commission.

The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give the exact amount to be incurred. However, it is estimated that a recurring expenditure of about rupees five hundred crore will be involved per annum.

A non-recurring expenditure of rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may provide for matters, such as—

(a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and members under sub-section (5) of section 4 of officers and other employees under sub-section (2) of section 5;

(b) allowances for attending the meetings of the committee by the co-opted persons under sub-section (3) of section 8;

(c) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 12;

(d) the form in, and the time at, which the annual report shall be prepared under section 13;

(e) any other matter which is required to be, or may be, prescribed.

2. The matter in respect of which rules will be made are matters of procedural and administrative detail and it is not practicable to provide them under the Bill itself. The delegation of the legislative power is, therefore, of a normal character.

BILL NO. 90 OF 2015

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2015.

Short title.

2. In the Eighth Schedule to the Constitution,—

(i) existing entries 1 and 2 shall be renumbered as entries 2 and 3, respectively, and before entry 2 as so renumbered, the following entry shall be inserted, namely:—

Amendment
of the Eighth
Schedule.

"1. Angika.";

(ii) after entry 3 as so renumbered, the following entry shall be inserted, namely:—

"4. Bhojpuri."; and

(iii) entries 3 to 22 shall be renumbered as entries 5 to 24, respectively.

STATEMENT OF OBJECTS AND REASONS

Language is not only a medium of communication but also a sign of respect. Language also reflects on the history, culture, people, system of governance, ecology, politics, etc. 'Bhojpuri' language is also known as Bhozपुरी, Bihari, Deswali and Khotla and is a member of the Bihari group of the Indo-Aryan branch of the Indo-European language family and is closely related to Magahi and Maithili languages.

Bhojpuri language is spoken in many parts of north-central and eastern regions of this country. It is particularly spoken in the western part of the State of Bihar, north-western part of Jharkhand state and the Purvanchal region of Uttar Pradesh State. Bhojpuri language is spoken by over forty million people in the country. As per the Census 2001, a total of 3,30,99,497 persons in the country have mentioned Bhojpuri as their mother tongue.

The prosperity of a society is earmarked by its linguistic heritage. If one goes through the history of Bhojpuri language, it dates back to seventh century. Due to a long history of emigration from the Bhojpuri regions, this language has spread over all continents of the world. It is also one of the national languages of Fiji spoken as 'Fiji Hindi'.

Bhojpuri culture is popular even in countries like Nepal, Mauritius, Sri Lanka, Thailand, England and Greece. In about twenty countries across the world, fifteen to sixty-five per cent. of the population is Bhojpuri speaking. In Nepal, Bhojpuri is spoken by over two-million people. Bhojpuri is also spoken by over four lakh people in Mauritius.

Variants of Bhojpuri are spoken by descendants of Bhojpuri-speaking plantation workers in several countries like Guyana, Suriname, Fiji, Trinidad and Tobago.

In addition to Bhojpuri, Angika is an ancient language spoken by millions of people in eastern part of Bihar consisting of the districts of Bhagalpur, Banka, Jamui and Munger and in Santhal Pargana region of Jharkhand consisting of the districts of Sahebganj, Godda, Deoghar, Pakur, Dumka and Jamtara and also in Malda District of West Bengal. Besides India, Angika is also spoken in Terai region of Nepal. It is a language with rich tradition that dates back to the Mahabharat Era. A large number of prominent scholars of Angika language have contributed a lot to Angika literature. Hundreds of standard literary books are available in Angika language. Angika is also taught at Post Graduate level at Tilkamanjhi University in Bhagalpur in the State of Bihar. The language carries a rich cultural heritage which can be witnessed in the traditions of the people residing in these areas. Because of onslaught of English and Khari Boli, the future of this language appears to be flattened. It is, therefore, the duty of the Government to protect the language, being an important part of our heritage.

In view of above, in order to promote, integrate and empower 'Bhojpuri' and 'Angika' languages and to protect the culture and traditions of the persons speaking these languages, it is necessary that these languages be given their due recognition by including them in the Eighth Schedule to the Constitution.

Hence this Bill.

NEW DELHI;
March 10, 2015.

ASHWINI KUMAR CHOUBEY

BILL NO. 114 OF 2015

A Bill to provide for the establishment of the Medical Device Regulatory Authority to regulate and monitor manufacturing, packaging, labeling, advertising, sale, use and disposal of medical devices and ensure availability of safe medical devices in the country and for matters connected therewith.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Medical Device Regulatory Authority Act, 2015.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Authority” means the Medical Device Regulatory Authority established under section 3;

(b) “medical device” means any instrument, apparatus, implant, machine,

appliance, in-vitro reagent or calibrator, software, material or other similar or related article,—

(i) intended by the manufacturer to be used, alone or in combination, for human beings for one or more of the specific purposes of—

(a) diagnosis, prevention, monitoring, treatment or alleviation of disease;

(b) diagnosis, monitoring, treatment, alleviation of or compensation for an injury;

(c) investigation, replacement, modification or support of the anatomy or of a physiological process;

(d) supporting or sustaining life;

(e) control of conception;

(f) disinfection of medical device and equipment; and

(g) providing information for medical or diagnostic purposes by means of in-vitro examination of specimens derived from the human body; and

(ii) which does not achieve its primary intended action in or on the human body by pharmacological, immunological or metabolic means, but which may be assisted in its intended functions by such means; and

(c) “prescribed” means prescribed by the rules made under this Act.

Establishment
of a Medical
Device
Regulatory
Authority.

3. (1) The Central Government shall, by notification in the Official Gazette, established an Authority to be known as the Medical Device Regulatory Authority to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The Authority shall consist of—

(i) the Chairperson to be appointed on the recommendation of the Selection Committee constituted under sub-section (1) of section 4;

(ii) two officers not below the rank of Additional Secretary, representing the Union Ministries of Science and Technology and Health and Family Welfare, respectively, as members;

(iii) two eminent medical practitioners having fifteen years of experience in the field of surgery and medicines, as members;

(iv) three eminent technologists in the field of medical device and equipment, as members;

(v) an expert in the field of business, as member; and

(vi) an eminent jurist, as member,

to be nominated by the Central Government.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable or immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be at New Delhi.

(4) The Authority may establish its regional offices at such other places as it may consider necessary.

Selection
Committee
for selection
of
Chairperson
of the
Authority.

4. (1) The Central Government shall, for the purpose of selection of the Chairperson of the Authority, constitute a Selection Committee consisting of—

(a) Cabinet Secretary—Chairperson of the Selection Committee;

(b) Secretary-in-charge of the Ministry of Department of the Central Government dealing with Health—Member;

(c) Secretary-in-charge of the Ministry or Department of the Central Government dealing with Law—Member; and

(d) an eminent bio-technologist or medical technologist to be nominated by the Central Government—Member.

(2) The Selection Committee shall, before recommending any person for appointment as a Chairperson of the Authority, satisfy itself that such person does not have any financial or other conflicts of interest, which is likely to affect prejudicially its functions as Chairperson.

(3) The Central Government shall, within a period of two months from the date of occurrence of vacancy in the office of the Chairperson by reason of death, resignation or removal of the Chairperson of the Authority and three months before the superannuation or completion of the term of the office of the Chairperson, make a reference to the Selection Committee for filling up of the vacancy.

(4) The Selection Committee shall finalise the selection of the Chairperson within three months from the date on which the reference is made to it under sub-section (3).

5. (1) It shall be the objective of the Authority to regulate and monitor manufacturing, packaging and labeling, advertising, sale, use and disposal of medical devices and ensure availability of safe medical devices for human use in the country.

Objects of the Authority.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority may,—

(a) notify essential features of safety and performance of a medical device and/or equipment including the requirements for its design;

(b) categorize medical devices based on levels of risk it poses and prescribe standards for methods and extent of control and also specify an appropriate system for enforcing various standards notified under this Act;

(c) determine which medical devices can be imported for use in India;

(d) prohibit import and use of medical devices which are in the category of banned medical devices;

(e) provide for the requirements and mechanism for conformity assessment using direct or third party bodies notified by it;

(f) provide for licensing framework for import, export, storage and warehousing of medical devices and for health facilities using medical devices;

(g) inspect stores, warehouses where medical devices are being stored;

(h) establish laboratories with appropriate equipment, technical and administrative staff to test the quality of medical devices.

(i) notify policies and standards for issuing of market approval of medical devices including those already approved by regulatory bodies;

(j) prescribe methodology for implementing and operating a post-market surveillance system;

(k) provide for enforcement of the various provisions stipulated in this Act;

(l) develop policies for restricting the rights of companies or other parties in the case of adverse effects caused by a medical device; and

(m) provide for any other matter relating to medical devices.

6. The Authority shall perform the following functions, namely:—

Functions of the Authority.

(a) provide scientific advice to the Central Government and the State Governments in areas which have direct or indirect bearing on medical devices and equipments safety and efficacy;

(b) develop national/international technical standards for medical devices and equipments;

(c) promote consistency between international technical standards and national medical device/equipment standards while keeping in view the differences between international and Indian populations and ensuring that the level of protection adopted in the country is not reduced;

(d) collect, collate and analyse relevant scientific and technical data relating to—

(i) adverse events following the use of medical devices and equipment; and

(ii) risks related to the use of medical devices and equipment;

(e) develop an effective alert system and promote awareness on safety of medical devices;

(f) promote, co-ordinate and issue guidelines for the development of risk assessment methodologies and also monitor, conduct and send messages on the risks associated with medical devices to the Central Government, State Governments and other enforcement agencies;

(g) enter into agreements with other countries and national/international non-Governmental Organisations and conduct programs in association with them with the aim of facilitating scientific co-operation and exchange of expertise, with in the areas of operation of the Authority;

(h) provide training in medical device/equipment safety and standards to persons engaged in medical device business; and

(i) undertake any other task assigned to it by the Central Government to carry out the objects of this Act.

Establishment
of Ombudsman.

7. (1) The Central Government shall appoint an Ombudsman for the purpose of making inquiries in respect of complaints made against the Chairperson or members of the Authority.

(2) The Ombudsman appointed under sub-section (1) shall be an eminent jurist.

(3) The Ombudsman shall hold office for a term of two years from the date of his appointment.

(4) The Ombudsman shall—

(i) entertain complaints against the Chairperson or a member of the Authority;

(ii) inquire into complaints within a period of three months from the date of receipt of complaint; and

(iii) recommend punitive action or prosecution, on the basis of evidence available, against the Chairperson or any member of the Authority, to the Central Government.

Provisions not
in derogation
of any other
law for time
being in force.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make
rules.

9. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the

expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Although, medical device industry constitutes a very small proportion of the total manufacturing sector, yet it is extremely significant in the field of public health. A supportive regulatory and investment climate is key enabler for promoting the growth of medical device companies. A key concern over the years has always been that India has had a prolonged and cumbersome regulatory pathway, especially for new products. What has been long needed is a careful policy intervention so as to reap the full benefits of India's inherent advantages and capabilities.

The present Bill, therefore, seeks to ensure the quality and standard of medical devices/equipments used in India. It also provides for inspection and monitoring of medical devices and equipments to protect the interests of persons receiving health services, reduction of adverse events/incidents of using medical devices, creating a system for monitoring the quality, safety, efficacy and availability of medical devices and equipments.

Hence this Bill.

NEW DELHI;
March 11, 2015.

SANJAY JAISWAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Medical Device Regulatory Authority. Clause 4 provides for the constitution of a Selection Committee for the selection of the Chairperson of the Medical Device Regulatory Authority. Clause 5 provides that the Authority may establish laboratories to test the quality of medical equipments. Clause 7 provides for appointment of an Ombudsman to entertain complaints against the Chairperson and the members of the Authority. The Bill, therefore, if enacted, will involve expenditure from the Consolidated fund of India. It is estimated that a sum of rupees one hundred crore will be involved as recurring expenditure per annum.

A sum of rupees twenty-five crore is also likely to be involved as a non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of details only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 112 OF 2015

A Bill to provide for payment of adequate compensation by the Central Government to the dependents of deceased personnel of the Indian Armed Forces, Paramilitary Forces, Central Armed Police Forces and the State Armed Police Forces, who sacrifice their lives in the line of duty.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Martyrs (Payment of Adequate Compensation) Bill, 2015.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title
and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Central Armed Police Forces” mean the Border Security Force, Central Reserve Police Force, Central Industrial Security Force, Indo-Tibetan Border Police and the Sashastra Seema Bal and shall include such other Central Armed Police Forces as may be notified by the Central Government;

(b) “dependent” in relation to a martyr shall include his spouse, son, unmarried daughter, parents, minor brother, unmarried sister, widowed sister, widowed daughter, widowed daughter-in-law, minor child of a pre-deceased son, minor child of a pre-deceased daughter if no parent of that child is alive and paternal grandparent;

(c) “Indian Armed Forces” means the Indian Army, the Indian Navy, the Indian Air Force and the Indian Coast Guard;

(d) “martyr” means a person serving in the Central Armed Police Forces, Indian Armed Forces, Paramilitary Forces and State Armed Police Forces and who dies in the performance of his duties, which shall include death on duty in a specified high altitude or in inaccessible border posts on account of natural disasters and extreme weather conditions;

(e) “Paramilitary Forces” mean the Assam Rifles, and the Special Frontier Force and shall include such other Paramilitary Forces as may be notified by the Central Government; and

(f) “State Armed Police Forces” mean State police units constituted for dealing with serious law and order situations requiring a higher level of armed expertise and known by the names like Special Armed Police, Armed Constabulary, Provincial Armed Constabulary or Pradeshik or State Military Police.

Central Government to pay adequate compensation to the dependents of martyrs.

3. (1) The Central Government shall pay to the dependents of every martyr such amount of money as compensation as it may deem adequate to enable the dependents to sustain a dignified life:

Provided that the compensation to be paid to the dependents shall, in no case, be less than fifty lakh rupees.

(2) The Central Government shall, from time to time, revise the amount of compensation in accordance with the cost of living.

(3) For the purpose of computing the amount of compensation under sub-section (1), the Central Government shall take into account the following factors, namely:—

(i) age of the martyr;

(ii) total period of service for which the martyr had been recruited;

(iii) period of service completed by the martyr;

(iv) period of service left; and

(v) number of dependents of the martyr.

Power to make rules.

4. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act by the Central Government shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of that the session immediately following the session or the successive sessions aforesaid, both the Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Indian Armed Forces, Paramilitary Forces, the Central Armed Police Forces and the State Armed Police Forces, despite being under the control of different bodies such as the Ministry of Defence, the Home Ministry and the respective State Governments, are all called upon to render variety of services connected with maintaining law and order in the country. Many of these forces are deployed to combat insurgents, *naxals*, *maoists*, *Jehadi* or such other violent forces having fissiparous tendency. They are also often deployed in unison of local police and as part of the same contingent performing the same duties. This has often resulted in laying down of their life in the line of duty.

No amount of compensation ever prescribed can meet the true spirit of their sacrifice or hope to even partly compensate the loss caused to their dependents. It is felt that there is no clear cut transparent compensation norms and common benchmark for determining the amount to be paid to dependents of martyrs. This has resulted in varying degrees of *ex-gratia* payment to their families. The differences in payouts have raised a serious debate over uniformity in compensation amounts. In case of both, a policeman or armed forces personnel, there is no parity in the relief amount given to their families, despite both having made the supreme sacrifice under the same and/or similar circumstances. This raises a question on Government's policy on compensation to the dependents of martyrs.

This Bill, therefore, seeks to prescribe a minimum uniform amount as compensation to be paid to the families and dependents of martyrs in order to enable them to live a dignified life.

NEW DELHI;
March 12, 2015.

DEEPENDER SINGH HOODA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall pay adequate compensation to the dependents of martyrs. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five hundred crore is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 111 OF 2015

A Bill to provide for the constitution and regulation of a new army regiment to be known as the Bose Regiment for ensuring the security of the Indo-Myanmar, Indo-Nepal and Indo-Bangladesh borders, ensuring the security of India's north-eastern frontiers and for other matters connected therewith.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Bose Regiment Act, 2015.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title
and
commencement.

Definitions

2. (I) In this Act, unless the context otherwise requires,—

(a) “active duty”, in relation to a person subject to this Act, means any duty as a member of the Regiment during the period in which such person is attached to, or forms part of, a unit of the Regiment —

(i) which is engaged in operations against an enemy, or

(ii) which is operating at a picket or engaged on patrol or other guard duty along the Indo-Myanmar, Indo-Nepal, Indo-Bangladesh borders and/or securing India's North-Eastern frontiers and includes duty by such person during any period declared by the Central Government by notification in the Official Gazette as a period of active duty with reference to any area in which any person or class of persons subject to this Act may be serving;

(b) “battalion” means a unit of the Regiment constituted as a battalion by the Central Government;

(c) “Chief Law Officer” and “Law Officer” mean, respectively, the Chief Law Officer and a Law Officer of the Regiment appointed by the Central Government;

(d) “civil offence” means an offence which is triable by a criminal court;

(e) “civil prison” means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894, or under any other law for the time being in force; 9 of 1894.

(f) “Commandant”, when used in any provision of this Act with reference to any unit of the Regiment, means the officer whose duty it is under the rules to discharge with respect to that unit, the functions of a Commandant in regard to matters of the description referred to in that provision;

(g) “criminal court” means a court of ordinary criminal justice in any part of India;

(h) “Deputy-Inspector General” means a Deputy-Inspector General of the Regiment appointed under section 5;

(i) “Director-General” means the Director-General of the Regiment appointed under section 5;

(j) “enemy” includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to this Act to take action;

(k) “enrolled person” means an under-officer or other person enrolled under this Act;

(l) “Regiment custody” means the arrest or confinement of a member of the Regiment according to rules;

(m) “Inspector-General” means the Inspector-General of the Regiment appointed under section 5;

(n) “member of the Regiment” means an officer, a subordinate officer, an under-officer or other enrolled person;

(o) “notification” means a notification published in the Official Gazette;

(p) “offence” means any act or omission punishable under this Act and includes a civil offence;

(q) “officer” means a person appointed or in pay as an officer of the Regiment, but does not include a subordinate officer or an under-officer;

(r) “prescribed” means prescribed by rules made under this Act;

(s) “Regiment” means the Bose Regiment constituted under section 4;

(t) “rule” means a rule made under this Act;

(u) “subordinate officer” means a person appointed or in pay as a Subedar-Major, a Subedar or a Sub-Inspector of the Regiment;

(v) “superior officer”, when used in relation to a person subject to this Act, means,—

(i) any member of the Regiment to whose command such person is for the time being subject in accordance with the rules; and

(ii) any officer of higher rank or class or of a higher grade in the same class

And includes when such person is not an officer, a subordinate officer or an under-officer of higher rank, class or grade;

(w) “under-officer”, means a Head Constable, Naik and Lance Naik of the Regiment;

(x) “All words and expressions used and not defined in this Act but defined in the Indian Penal Code, 1860 shall have the meanings assigned to them in that Code.

45 of 1860.

(2) In this Act, references to any law not in force in the State of Jammu and Kashmir shall be construed as references to the corresponding law in Regiment in that State.

3. (1) The following persons shall be subject to this Act, wherever they may be, namely:—

Persons
subjects to
this Act.

(a) officers and subordinate officers; and

(b) under-officers and other persons enrolled under this Act.

(2) Every person subject to this Act shall remain so subject until retired, discharged, released, removed or dismissed from the Regiment in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE REGIMENT AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE REGIMENT

4. (1) There shall be an armed Regiment of the Union called the Bose Regiment for ensuring the security Indo-Myanmar, Indo-Nepal, Indo-Bangladesh borders and/or securing India's North-Eastern frontiers.

Constitution
of the Bose
Regiment.

(2) Subject to the provisions of this Act, the Regiment shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Regiment shall be such as may be prescribed.

5. (1) The general superintendence, direction and control of the Regiment shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules, the command and supervision of the Regiment shall vest in an officer to be appointed by the Central Government as the Director-General of the Regiment.

Direction and
Control of
the
Regiment.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Inspectors-General, Deputy Inspectors-General, Commandants and other officers as may be prescribed by the Central Government.

Enrolment.	<p>6. (1) The persons to be enrolled to the Regiment, the mode of enrolment, and the procedure for enrolment shall be such as may be prescribed by the Central Government.</p> <p>(2) Notwithstanding anything contained in this Act and the rules, every person who has, for a continuous period of three months, been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Regiment shall be deemed to have been duly enrolled.</p>
Liability for service outside India.	7. Every member of the Regiment shall be liable to serve in any part of India as well as outside India as and when required by the Government during their term of engagement.
Resignation and withdrawal from the post.	<p>8. No member of the Regiment shall be at liberty,—</p> <p>(a) to resign his appointment during the term of his engagement; or</p> <p>(b) to withdraw himself from all or any of the duties of his appointment,</p> <p>except with the previous permission in writing of the prescribed authority.</p>
Tenure of Service under the Act.	9. Every person subject to this Act shall hold office during the pleasure of the President.
Termination of service by Central Government.	10. Subject to the provisions of this Act and the rules, the Central Government may dismiss or remove from the service any person subject to this Act.
Dismissal, removal or reduction by the Director-General and by other officers.	<p>11. (1) This Director-General or any Inspector-General may dismiss or remove from the service or reduce to a lower grade or rank or the ranks any person subject to this Act other than an officer.</p> <p>(2) An officer not below the rank of Deputy Inspectors-General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or a subordinate officer of such rank or ranks as may be prescribed.</p> <p>(3) Any such officer as is mentioned in sub-section (2) may reduce to a lower grade or rank or the ranks any person under his command except an officer or a subordinate officer.</p> <p>(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules.</p>
Certificate of termination of service.	<p>12. A subordinate officer, or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from the service shall be furnished by the officer, to whose command he is subject, with a certificate in the language which is the mother tongue of such person and also in Hindi or English language setting forth—</p> <p>(a) the authority terminating his service;</p> <p>(b) the cause for such termination; and</p> <p>(c) the full period of his service in the Regiment.</p>
Restrictions respecting right to form association, freedom of speech etc.	<p>13. (1) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—</p> <p>(a) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations; or</p> <p>(b) be a member of, or be associated in any way with, any society, institution, association or organization that is not recognised as part of the Regiment or is not of a purely social, recreational or religious nature; or</p> <p>(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the</p>

bona fide discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.— If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organized by any body of persons for any political purposes or for such other purposes as may be prescribed.

CHAPTER III

OFFENCE

14. Any person subject to this Act who commits any of the following offences, that is to say:—

Offences in relation to the enemy and punishable with death.

(a) shamefully abandons or delivers up any post, place or guard, committed to his charge or which it is his duty to defend; or

(b) intentionally uses any means to compel or induce any person subject to this Act or to military, naval or air force law to abstain from acting against the enemy or to discourage such person from acting against the enemy; or

(c) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(d) treacherously holds correspondence with or communicates intelligence to, the enemy or any person in arms against the Union; or

(e) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or

(f) in time of active operation against the enemy, intentionally occasions a false alarm in action, camp, quarters, or spreads or causes to be spread reports calculated to create alarm or despondency; or

(g) in time of action leaves his Commandant or other superior officer or his post, guard, picket, patrol or party without being regularly, relieved or without leave; or

(h) having been captured by the enemy or made a prisoner of war, voluntarily serves with or aids the enemy; or

(i) knowingly harbours or protects an enemy not being a prisoner; or

(j) being a sentry in time of active operation against the enemy or alarm, sleeps upon his post or is intoxicated; or

(k) knowingly does any act calculated to imperil the success of the Regiment or the military, naval or air forces of India or any forces co-operating therewith or any part of such forces,

shall, on conviction by a Security Regiment Court, be liable to suffer death or such less punishment as is in this Act mentioned.

15. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in relation to the enemy and not punishable with death.

(a) is taken prisoner or captured by the enemy, by want of due precaution or through disobedience of orders, or willful neglect of duty, or having been taken prisoner or so captured fails to rejoin his service when able to do so; or

(b) without due authority holds correspondence with, or communicates intelligence to, the enemy or any person in league with the enemy or having come by the knowledge of any such correspondence or communication, willfully omits to discover it immediately to his Commandant or other superior officer,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

Offences punishable more severely on active duty than at other times.

16. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) forces a safeguard, or Regiments or forces criminal force to a sentry; or

(b) breaks into any house or other place in search of plunder; or

(c) being a sentry sleeps upon his post, or is intoxicated; or

(d) without orders from his superior officer leaves his guard, picket, patrol or post; or

(e) intentionally or through neglect occasions a false alarm in camp or quarters, or spreads or causes to be spread reports calculated to create unnecessary alarm or despondency; or

(f) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or countersign different from what he received,

shall, on conviction by a Security Regiment Court,—

(A) If he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(B) If he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Mutiny.

17. Any person subject to this Act who commits any of the following offences, that is to say:—

(a) begins, incites, causes or conspires with any other person to cause any mutiny in the Regiment or in the military, naval or air forces of India or any forces co-operating therewith; or

(b) joins in any such mutiny; or

(c) being present at any such mutiny, does not use his utmost endeavour to suppress the same; or

(d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commandant or other Superior officer; or

(e) endeavors to seduce any person in the Regiment or in the military, naval or air forces of India or any forces co-operating therewith from his duty or allegiance to the Union;

shall, on conviction by a Security Regiment Court, be liable to suffer death or such less punishment as is in this Act mentioned.

Desertion and aiding desertion.

18. (1) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by a Security Regiment Court,—

(a) if he commits the offence when on active duty or when under order for active duty, be liable to suffer death or such less punishment as is in this Act mentioned; and

(b) if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(3) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

19. Any person subject to this Act who commits any of the following offences, that is to say:—

Absence
without leave.

(a) absents himself without leave; or

(b) without sufficient cause overstays leave granted to him; or

(c) being on leave of absence and having received information from the appropriate authority that any battalion or part thereof or any other unit of the Regiment, to which he belongs, has been ordered on active duty, fails, without sufficient cause, to rejoin without delay; or

(d) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(e) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(f) when in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(g) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

20. Any person subject to this Act who commits any of the following offences, that is to say,—

Striking or
threatening
superior
officers.

(a) uses criminal force to or assaults his superior; or

(b) uses threatening language to such officer; or

(c) uses insubordinate language to such officer;

shall, on conviction by a Security Regiment Court,—

(A) if such officer is at the time in the execution of his office or, if the offence is committed on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(B) in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of an offence specified in clause (c), the imprisonment shall not exceed five years.

21. (1) Any person subject to this Act who disobeys in such manner as to show a willful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

Disobedience
to superior
officer.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by a Security Regiment Court,—

(a) if he commits such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if he commits such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Insubordination
and
Obstruction.

22. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officers; or

(b) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(c) resists an escort whose duty it is to apprehend him or to have him in charge; or

(d) breaks out of barracks, camp or quarters; or

(e) neglects to obey any general, local or other order; or

(f) impedes the Regiment Police or any person lawfully acting on his behalf, or when called upon, refuses to assist in the execution of his duty a Regiment Police or any person lawfully acting on his behalf,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (d) and (e), to two years, and in the case of the offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

False answers
on enrolment.

23. Any person having become subject to this Act who is discovered to have made at the time of enrolment a willfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Certain forms
of disgraceful
conduct.

24. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(b) malingers, or feigns, or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Ill-treating a
subordinate.

25. Any officer, subordinate officer or under-officer, who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

26. Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

Intoxication.

27. Any person subject to this Act who commits any of the following offences, that is to say,—

Permitting escape of person in custody.

(a) when in command of a guard, picket, patrol or post, releases without proper authority, whether willfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(b) willfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by a Security Regiment Court, be liable, if he has acted willfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has not acted willfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

28. Any person subject to this Act who commits any of the following offences, that is to say,—

Irregularity in connection with arrest or confinement.

(a) unnecessarily details a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to Regiment custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as in this Act mentioned.

29. Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Escape from custody.

30. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in respect of property.

(a) commits theft of any property belonging to the Government, or to any Regiment mess, band or institution, or to any person subject to this Act; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or

(e) willfully destroys or injures any property of the Government entrusted to him; or

(f) does any other thing with intent of defraud, or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Extortion and
corruption.

31. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits extortion; or

(b) without proper authority exacts from any person money, provisions or service,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Making away
with
equipment.

32. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(b) loses by neglect anything mentioned in clause (a); or

(c) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (a), to ten years, and in the case of the offences specified in the other clauses, to five years or in either case such less punishment as is in this Act mentioned.

Injury to
property.

33. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) destroys or injures any property mentioned in clause (a) of section 32, or any property belonging to any Regiment mess, band or institution, or to any person subject to this Act; or

(b) commits any act which causes damage to, or destruction of, any property of the Government by fire; or

(c) kills, injures, makes away with, ill-treats or loses any animal entrusted to him,

shall, on conviction by a Security Regiment Court, be liable, if he has acted willfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

False
accusations.

34. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(b) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and willfully suppresses any material facts,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Falsifying
official
documents
and false
declarations.

35. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or

(b) in any document of the description mentioned in clause (a) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(d) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

36. Any person subject to this Act who commits any of the following offences, that is to say,—

Signing in blank and failure to report.

(a) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government fraudulently leaves in blank any material part for which his signature is a voucher; or

(b) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

37. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences relating to Security Regiment Court.

(a) being duly summoned or ordered to attend as a witness before a Security Regiment Court, willfully or without reasonable excuse, makes default in attending; or

(b) refuses to take an oath or make an affirmation legally required by a Security Regiment Court to be taken or made; or

(c) refuses to produce or deliver any document in his power or control legally required by a Security Regiment Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; or

(e) is guilty of contempt of the Security Regiment Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

38. Any person subject to this Act who, having been duly sworn or affirmed before any Security Regiment Court or other Court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

False evidence.

Unlawful
detention of
pay.

39. Any officer, subordinate officer or an under-officer who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by a Security Regiment Court be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Violation of
good order
and discipline.

40. Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the Regiment shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Miscellaneous
offences.

41. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being in command at any post or on the march, and receiving a complaint that anyone under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(b) by defiling any place of worship, or otherwise, intentionally insults the religion, or wounds the religious feelings of, any person; or

(c) attempts to commits suicide, and in such attempt does any act towards the commission of such offence; or

(d) being below the rank of subordinate officer, when off duty, appears without proper authority, in or about camp, or in or about, or when going to, or returning from, any town or bazaar, carrying a rifle, sword or other offensive weapon; or

(e) directly or indirectly accepts or obtains or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(f) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving,

shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Attempt.

42. Any person subject to this act who attempts to commit any of the offences specified in sections 14 to 41 (both inclusive) and in such attempt does any act towards the commission of the offence; shall, on conviction by a Security Regiment Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

(a) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in the Act mentioned.

Abetment of
offences that
have been
committed.

43. Any person subject to this Act who abets the commission of any of the offences specified in sections 14 to 41 (both inclusive) shall, on conviction by a Security Regiment Court, if the Act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

Abetment of
offences
punishable with
death and not
committed.

44. Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 14, 17 and sub-section (1) of section 18 shall, on conviction by a Security Regiment Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such

abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

45. Any person subject to this Act who abets the commission of any of the offences specified in sections 14 to 41 (both inclusive) and punishable with imprisonment shall, on conviction by a Security Regiment Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences punishable with imprisonment and not committed.

46. Subject to the provisions of section 47, any person subject to this Act who at any place in, or beyond India, commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Security Regiment Court and, on conviction, be punishable as follows, that is to say,—

Civil offences.

(a) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(b) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

47. A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence against this Act and shall not be tried by a Security Regiment Court, unless he commits any of the said offences,—

Civil offences not tried by a Security Regiment Court.

(a) while on active duty; or

(b) at any place outside India; or

(c) at any place specified by the Central Government by notification in this behalf.

CHAPTER IV

PUNISHMENT

48. (1) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Regiment Courts according to the scale following, that is to say,—

Punishments awardable by Security Regiment Courts.

(a) death;

(b) Imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Regiment custody;

(c) dismissal from the service;

(d) imprisonment for a term not exceeding three months in Regiment custody;

(e) reduction to the ranks or to a lower rank or grade or place in this list of their rank in the case of an under-officer;

(f) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion;

(g) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;

(h) fine, in respect of civil offences;

(i) severe reprimand or reprimand except in the case of persons below the rank of an under-officer;

(j) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active duty;

(k) forfeiture in the case of person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal; and

(l) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.

(2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Alternative punishments awardable by Security Regiment Courts.

49. Subject to the provisions of this Act, a Security Regiment Court may, on convicting a person subject to this Act of any of the offences specified in sections 14 to 45 (both inclusive) award either the particular punishment with which the offence is stated in the said section to be punishable or, in lieu thereof, any one of the punishments lower in the scale set out in section 48 regard being had to the nature and degree of the offence.

Combination of punishments.

50. A sentence of a Security Regiment Court may award in addition to, or without any one other punishment, the punishment specified in clause (c) of sub-section (1) of section 48, and any one or more of the punishments specified in clauses (e) to (l) (both inclusive) of that sub-section.

Retention in the Regiment of a person convicted on active duty.

51. When on active duty any enrolled person has been sentenced by a Security Regiment Court to dismissal or to imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of imprisonment if any.

Punishments otherwise than by Security Force Courts.

52. Punishment may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a Security Regiment Court in the manner stated in sections 53 and 55.

Minor punishments.

53. Subject to the provisions of section 54, a Commandant or such other officer as is, with the consent of Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer or a subordinate officer, who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(a) imprisonment in Regiment custody up to twenty-eight days;

(b) detention up to twenty-eight days;

(c) confinement to the lines up to twenty-eight days;

(d) extra guards or duties;

(e) deprivation of any special position or special emoluments or any acting rank or reduction to a lower grade of pay;

(f) forfeiture of good service and good conduct pay;

(g) severe reprimand or reprimand;

(h) fine up to fourteen day's pay in any one month; and

(i) deductions from his pay of any sum required to make good such compensation for any expense, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his Commandant.

54. (1) In the case of an award of two or more of the punishments specified in clauses (a), (b), (c) and (d) of section 53, the punishments specified in clause (c) or clause (d) shall take effect only at the end of the punishment specified in clause (a) or clause (b).

Limit of punishments under Section 53.

(2) When two or more of the punishments specified in the said clauses (a), (b) and (c) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(3) The punishments specified in the said clauses (a), (b) and (c) shall not be awarded to any person who is of the rank of an under-officer or was, at the time of committing the offence for which he is punished, of such rank.

(4) The punishment specified in clause (g) of section 53 shall not be awarded to any person below the rank of an under-officer.

55. (1) An officer not below the rank of the Deputy Inspector-General or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person of or below the rank of a subordinate officer who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

Punishment of persons of and below the rank of subordinate officers by Deputy Inspectors General and others.

(a) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused person to the award to elect to be tried by a Security Regiment Court;

(b) severe reprimand or reprimand;

(c) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment to the prescribed superior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary, or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

56. (1) Whenever any weapon or part of a weapon, or ammunition, forming part of the equipment of a unit of the Regiment, is lost or stolen, an officer not below the rank of the Commandant of a battalion may, after making such enquiry as he thinks fit and subject to the rules, impose a collective fine upon the subordinate officers, under-officers and men of such unit, or upon so many of them as, in his judgement, should be held responsible for such loss or theft.

Collective fines.

(2) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER V

MISCELLANEOUS

57. The following provisions of the Border Security Force Act, 1968 shall apply to this Act with modifications hereunder referred—

(A) in sections 57 to 63,—

(i) the terms 'Force' is to be replaced with the term 'Regiment';

(ii) the terms 'Security Force Court' and 'Force Court' are to be replaced with the terms 'Security Regiment Court' and 'Regiment Court', respectively;

(iii) the term 'General Security Force Courts' to be replaced with the term 'General Security Regiment Courts';

Application of certain provisions of the Border Security Force Act, 1968 (47 of 1968) to apply to this act with modification.

(iv) the term 'Petty Security Force Courts' to be replaced with the term 'Petty Security Regiment Courts';

(v) the term 'Summary Security Force Courts' to be replaced with the term 'Summary Security Regiment Courts';

(vi) the term 'Force Custody' to be replaced with the term 'Regiment Custody';

(B) in sections 64 to 81,—

(i) the terms 'Security Force Court' and 'Force Court' are to be replaced with the terms 'Security Regiment Court' and 'Regiment Court', respectively;

(ii) the term 'General Security Force Courts' to be replaced with the term 'General Security Regiment Courts';

(iii) the term 'Petty Security Force Courts' to be replaced with the term 'Petty Security Regiment Courts';

(iv) the term 'Summary Security Force Courts' to be replaced with the term 'Summary Security Regiment Courts';

(C) in sections 82 to 106,—

(i) the term 'Force', is to be replaced with the term 'Regiment';

(ii) the terms 'Security Force Court' and 'Force Court' are to be replaced with the terms 'Security Regiment Court' and 'Regiment Court', respectively;

(iii) the term 'General Security Force Courts' to be replaced with the term 'General Security Regiment Courts';

(iv) the term 'Petty Security Force Courts' to be replaced with the term 'Petty Security Regiment Courts';

(v) the term 'Summary Security Force Courts' to be replaced with the term 'Summary Security Regiment Courts';

(D) in sections 107 to 118,—

(i) the terms 'Security Force Court' and 'Force Court' are to be replaced with the terms 'Security Regiment Court' and 'Regiment Court', respectively;

(ii) the term 'General Security Force Courts' to be replaced with the term 'General Security Regiment Courts';

(iii) the term 'Petty Security Force' to be replaced with the term 'Petty Security Regiment Courts';

(iv) the term 'Summary Security Force Courts' to be replaced with the terms 'Summary Security Regiment Courts';

(E) in sections 119 to 138,—

(i) the term 'Force' is to be replaced with the term 'Regiment';

(ii) the terms 'Security Force Court' and 'Force Court' are to be replaced with the terms 'Security Regiment Court' and 'Regiment Court', respectively;

(iii) the term 'General Security Force Courts' to be replaced with the term 'General Security Regiment Courts';

(iv) the term 'Petty Security Force Courts' to be replaced with the term 'Petty Security Regiment Courts';

(v) the term 'Summary Security Force Courts' to be replaced with the term 'Summary Security Regiment Courts';

(vi) the term 'Force Custody' to be replaced with the term 'Regiment Custody';

58. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

Power to make Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:—

(a) the Constitution, governance, command and discipline of the Regiment;

(b) the enrolment of persons to the Regiment and the recruitment of other members of the Regiment;

(c) the conditions of service (including deductions from pay and allowances) of members of the Regiment;

(d) the rank, precedence, powers of command and authority of the officers, subordinate officers, under-officers and other persons subject to this Act;

(e) the removal, retirement, release or discharge from the service of persons subject to this Act;

(f) the purposes and other matters required to be prescribed under section 13;

(g) the convening, Constitution, adjournment, dissolution and sittings of Security Regiment Courts, the procedure to be observed in trials by such courts, the persons by whom an accused may be defended in such trials and the appearance of such persons there at;

(h) the confirmation, revision and annulment of, and petitions against, the finding and sentences of Security Regiment Courts;

(i) the forms or orders to be made under the provisions of this Act relating to Security Regiment Courts and the awards and infliction of death, imprisonment and detention;

(j) the carrying into effect of sentences of Security Regiment Courts;

(k) any matter necessary for the purpose of carrying this Act into execution, as far as it relates to the investigation, arrest, custody, trial and punishment of offences triable or punishable under this Act;

(l) the ceremonials to be observed and marks of respect to be paid in the Regiment;

(m) the convening of, the Constitution, procedure and practice of, Courts of inquiry, the summoning of witnesses before them and the administration of oaths by such Courts;

(n) the recruitment and conditions of service of the Chief Law Officer and the Law Officers;

(o) any other matter which is to be, or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the implementation of the Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,

both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Shri Subash Chandra Bose, fondly referred to as Netaji, is an iconic figure to Indians. He was a Congress student leader who participated in Gandhi's Civil Disobedience Movement, served as the Mayor of Calcutta in 1930, and later rose to the rank of Congress President in 1938 and 1939. A staunch Indian Nationalist gifted with great drive and charisma, Bose gave Indians everywhere a rallying cry 'Jai Hind' and is credited with reviving and leading the Indian National Army (INA), which sought to secure India's freedom from British Rule through armed resistance.

The INA under Bose was a model of diversity by region, ethnicity, religion and even gender. The INA was also at the forefront of women's equality and the formation of a women's regiment, the 'Rani of Jhansi Regiment' was formed to fight the British Raj as well as provide medical services to the INA. The efforts of INA in their fight for Indian independence played a big role in hastening the end of British rule in India.

Many members of the INA have been instrumental in shaping our country's destiny such as Shah Nawaz Khan, who served as a Minister of State for Rail in the First Indian cabinet, Lakshmi Sahgal, a well known and widely respected public figure in India and R.S. Benegal, who joined the Indian Air Force in 1952 and later rose to the rank of Air Commodore. So, it is now time we appropriately honour the man responsible for all this, by raising a regiment in his name to be known as the Bose Regiment.

Many of the battles INA engaged in were confined to the north-east frontiers of India, including regions of Bangladesh, Nepal and Myanmar. India faces many challenges along the border such as insurgency and cross-border terrorism, influx of illegal migrants, smuggling of arms, money laundering and fake currency, as well as a black-market of narcotics from across the border.

A Bose Regiment would ideally strengthen the security of the border. The Bose Regiment will be given the single mandate of guarding India's north-eastern frontiers and the porous border we share with China, Nepal, Myanmar & Bangladesh. A highly trained Regiment would be able to overcome problems of insurgency as well as check the terrorist activities, illegal migrants and smuggling of arms, narcotics and fake currency into India.

Hence this Bill.

NEW DELHI;
March 12, 2015.

DEEPENDER SINGH HOODA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of the Bose Regiment. Clause 5 provides for appointment of certain officers of the Regiment. Clause 6 provides for enrolment of persons to the Regiment.

The Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of about rupees one thousand crore will be involved as recurring expenditure.

A non-recurring expenditure of about five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 58 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. The matters in respect of which such rules may be made include the constitution, governance, command and discipline of the Regiment, the enrolment of the persons to the Regiment and the recruitment of other members to the Regiment, the conditions of service (including deductions from pay and allowances) of members of the Regiment, the rank, precedence, powers of command and authority of the officers, subordinate officers and other members of the Regiment.

As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 105 OF 2015

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2015.

Short title.

2. In the Eighth Schedule to the Constitution, existing entries 4 to 22 shall be renumbered as entries 5 to 23, respectively, and before entry 5 as so renumbered, the following entry shall be inserted, namely:—

Amendment of
the Eighth
Schedule.

"4. Bundeli."

STATEMENT OF OBJECTS AND REASONS

Ours is a multi-lingual country. In the Eighth Schedule to the Constitution of India, twenty-two languages, being spoken and written by our citizens, have been recognised as national languages. These languages represent the culture of the particular regions. A person learns the maximum things only through the medium of his mother tongue. Language is the light of wisdom. However, it is unfortunate that Bundeli language spoken by crores of people in Madhya Pradesh and Bundelkhand region of Uttar Pradesh has not yet been included in the Eighth Schedule to the Constitution. Bundeli language is struggling hard to maintain its existence and dignity.

The prosperity of a society or a country is distinguished by the literature composed in its own language. Keeping this viewpoint in mind, if one goes through the history of Bundeli language, it can be noticed that the epic '*Alhkhand*' was written in Bundeli by the great poet Jagnik. It is believed that with the advent of chandeli period, inception of Bundeli took place. It means Bundeli language existed in spoken and written form even two thousand years ago. *Ramcharitramanas* written by Tulsidas is full of Bundeli words. Stone inscriptions, invoices, correspondences, certificates and monarchical decrees have also been prepared in Bundeli. The Bundeli language has its specific contribution in Indian literature, history and in development of life-style. Besides abundant literature, Bundeli language is also the voice of expression of our glorious culture.

Bundeli is the mother tongue of a large Bundelkhand region spread over Madhya Pradesh and Uttar Pradesh. There are about five crore Bundeli speaking people in Sagar, Jabalpur, Gwalior, Hoshangabad and Bhopal divisions including bordering districts of Uttar Pradesh covering about 187934 square kilometres area. On 24th February, 2012, Legislative Assembly of Madhya Pradesh, after passing an unofficial resolution unanimously, sent a request to the Government of India for including Bundeli language in the Eighth Schedule.

Therefore, keeping in view the sentiments of the people of Bundelkhand region spread over a large area, Bundeli language should be accorded the status and honour of national language by including it in the Eighth Schedule to the Constitution.

With the inclusion of Bundeli language in the Eighth Schedule, the folk dances, folk songs, folk customs and other cultural heritage along with the Bundeli language can be saved from getting extinct.

Hence this Bill.

NEW DELHI;
March 9, 2015.

BHAIRON PRASAD MISHRA

BILL NO. 110 OF 2015

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Sixty-sixth year of the Republic of India as follows:—

1. This Act may be called as the Constitution (Scheduled Tribes) Order (Amendment) Short title. Act, 2015.

2. In the Scheduled to the Constitution (Scheduled Tribes) Order, 1950, in Part C.O. 22 of 1950. VIII.—*Madhya Pradesh*, after entry 20, the following entry shall be inserted, namely:—

"21 Keer".

STATEMENT OF OBJECTS AND REASONS

In pursuance of the Provisions of Clause (1) of article 342 of the Constitution, Presidential Orders were issued specifying the Scheduled Tribes in respect of various States and Union Territories. These Orders were amended from time to time by Acts of Parliament enacted under Clause (2) of article 342 of the Constitution.

The "Keer" community was included in the list of Scheduled Tribes in respect of the State of Madhya Pradesh through the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976. However, subsequently the name of this community was removed from the list of Scheduled Tribes in respect of the State of Madhya Pradesh by the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 2002.

De-listing of the "Keer" community from the list of Scheduled Tribes in respect of the State of Madhya Pradesh has created multifarious problems for the community. The Government of the State of Madhya Pradesh, on many occasions, have requested the Central Government to include the name of 'Keer' community in the list of Scheduled Tribes in respect of the State of Madhya Pradesh. However, no action has been taken by the Central Government so far.

The Bill, therefore, seeks to amend the Constitution (Scheduled Tribes) Order, 1950 to include 'Keer' community in the list of Scheduled Tribes in respect of the State of Madhya Pradesh.,

NEW DELHI;
March 20, 2015.

ALOK SANJAR

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to include 'Keer' tribe in the list of Scheduled Tribes for the State of Madhya Pradesh. The Bill, therefore, if enacted, would involve additional recurring and non-recurring expenditure from the Consolidated Fund of India on account of benefits to be provided to the persons belonging to this tribe under the ongoing Central Schemes meant for development of the Scheduled Tribes.

At this stage, it is not possible to give the exact amount to be incurred on this account. However, it is expected that a recurring expenditure of about rupees one hundred crore will be involved annually.

A non-recurring expenditure of about rupees ten crore is also likely to be involved.

BILL NO. 87 OF 2015

A Bill to provide for social security and welfare measures for writers and artists and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Writers and Artists' Social Security Act, 2015.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) "artist" means a person who through his creative skill performs any activity concerned with the production, exhibition of imaginative designs, videos, sounds, actions or ideas and includes a group of persons who exhibit their skills in unison to produce or exhibit such designs, videos, sounds, action or idea but does not

Short title,
extent and
commencement.

Definitions.

include a person who works under any State Government or the Central Government or in any Public Sector Undertaking under the control of the Central Government or a State Government;

(b) "Board" means the National Writers and Artists' Security Advisory Board constituted under section 4;

(c) "Fund" means the National Writers and Artists' Welfare Fund constituted under section 6;

(d) "prescribed" means prescribed by rules made under this Act; and

(e) "writer" means a person who through his creative skill, knowledge or experience produces a literary work but does not include a person employed as a journalist or works under any State Government or the Central Government or in any public Sector Undertaking under the control of the Central Government or a State Government.

Framing of welfare schemes for writers and artists by the Central Government.

3. The Central Government may formulate, from time to time, suitable welfare schemes for writers and artists on the matters relating to—

(a) insurance covering life and disability;

(b) health and maternity benefits;

(c) provident fund; and

(d) old age protection.

Constitution of the National Writers and Artists' Social Security Advisory Board.

4. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Writers and Artists' Social Security Advisory Board to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

(2) The Board shall consist of the following, namely:—

(a) a Chairperson to be appointed by the Central Government;

(b) two eminent writers to be nominated by the Central Government;

(c) two eminent artists to be nominated by the Central Government; and

(d) the Secretary to the Government of India in-charge of the Ministry of Culture shall be the ex-officio member-Secretary to the Board.

(3) The salary and allowances payable to and other terms and conditions of service of the Chairperson and members of the Board shall be such as may be prescribed.

(4) The Central Government shall make available to the Board such number of officers and staff as may be required for efficient functioning of the Board.

Functions of the Board.

5. The Board shall perform the following functions:—

(a) make recommendations to the Central Government to formulate and implement suitable schemes for the welfare of Writers and Artists;

(b) advise the Central Government on such matters arising out of the administration of this Act as may be referred to it;

(c) advise the Central Government regarding administration of the Fund; and

(d) undertake such other functions as may be assigned to it by the Central Government from time to time.

Constitution of National Writers and Artists' Welfare Fund.

6. The Central Government shall, by notification in the Official Gazette, constitute a fund to be known as the Writers and Artists' Welfare Fund.

Central Government to grant funds.

7. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit such sums of money to the Fund as it may think fit for being utilized for the purposes of this Act.

8. The Fund shall be utilized to provide financial assistance to the writers and artists for the following purposes:—

Utilization of Fund.

- (a) compensation in case of death or accident;
- (b) old age pension;
- (c) disability assistance;
- (d) free health care facility to the writers and artists and their family members; and
- (e) subsidized housing facilities.

9. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India is a welfare State and it is the duty of the State to ensure that all sections of the society are covered by a State sponsored social security network. On account of their unorganized nature of profession, writers and artists do not get adequate social security. There is practically no welfare scheme for their benefit. There is an urgent need to enact a legislation to provide for social security and welfare of the writers and artists so that they can live a life of comfort and dignity.

The present Bill, *inter alia*, provides for:—

(a) empowering the Central Government to formulate welfare schemes for the writers and artists;

(b) constitution of a Board to be known as the Writers and Artists' Social Security Advisory Board to recommend the Government to formulate and implement suitable schemes for welfare of writers and artists;

(c) constitution of a welfare fund to be known as National Writers and Artists' Welfare Fund;

in order to provide social security to the writers and artists in the country.

Hence this Bill.

NEW DELHI;
March 20, 2015.

DILIPKUMAR MANSUKHLAL GANDHI

FINANCIAL MEMORANDUM

Clause 4 provides for constitution of the National Writers and Artists' Social Security Advisory Board. Clause 6 provides for constitution of a Fund to be known as a National Writers and Artists' Welfare Fund by the Central Government. Clause 7 provides for supply of fund by the Central Government.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At this stage, it is difficult to give an exact estimate of expenditure likely to be involved as the exact amount of expenditure likely to be involved will depend upon the number of schemes formulated by the Government. However, it is estimated that an annual recurring expenditure of about rupees five hundred crore is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 99 OF 2015

A Bill to provide for the constitution of a Board for the conservation of cultural and natural heritage and for matters connected therewith.

WHEREAS the United Nations Educational Scientific and Cultural Organization Convention concerning the Protection of the World Cultural and Natural Heritage was held in Paris in 1972, which India ratified in 1977, to ensure effective and active measures for protection, conservation and presentation of the cultural and natural heritage situated on the territory of each State Party;

AND WHEREAS, it is expedient and necessary to enact a law for the purpose of implementing the decisions to take appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of cultural and natural heritage.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Cultural Heritage Conservation Act, 2015.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) ‘Board’ means the Cultural Heritage Conservation Board constituted under section 3;

(b) ‘Convention’ means the United Nations Educational, Scientific and Cultural Organization Convention concerning the Protection of the World Cultural and Natural Heritage held in Paris in 1972 and ratified by India in 1977;

(c) ‘cultural heritage’ includes the following:—

(i) ‘ancient monument’ and ‘archaeological sites and remains’ defined in clauses (a) and (d), respectively, of section 2 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958;

(ii) monuments, that is to say, architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwelling and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

(iii) groups of buildings, groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

(iv) sites, that is to say, works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view;

(d) “natural heritage” includes,—

(i) natural sites or precisely delineated natural areas which are of outstanding value from the point of view of science, conservation or natural beauty;

(ii) geological and physiographical formations and precisely delineated area which constitute the habitat of threatened species of animals and plants and are of outstanding value from the point of view of science or conservation;

(iii) natural features consisting of physical and biological formations or groups of such formations, which are of outstanding value from the aesthetic or scientific point of view; and

(e) “prescribed” means prescribed by rules made under this Act.

(2) The words and expressions used in this Act but not defined herein and defined in the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or the Indian Penal Code, 1860 or the Code of Criminal Procedure, 1973 shall have the same meaning, respectively, assigned to them in those Acts.

3. (1) The Central Government, shall, by notification in the Official Gazette, constitute a Board to be known as the Cultural Heritage Conservation Board.

Constitution
of the
Cultural
Heritage
Conservation
Board.

(2) The Board shall consist of,—

(a) a Chairperson to be appointed by the Central Government, from amongst the persons having such knowledge and experience, as may be prescribed;

(b) fourteen other members to be appointed by the Central Government from amongst the persons who have knowledge and experience in the field of archaeology, history, architecture, conservation, science and technology, environment science, town and country planning or public administration:

24 of 1958.

24 of 1958.
45 of 1860.
2 of 1974.

Provided that the Chairperson and the members of the Board shall be appointed in consultation with the Leaders of Opposition of both the Houses of Parliament.

(3) The Chairperson and every member of the Board shall hold office for a period of five years from the date on which he enters upon his office.

(4) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and the members of the Board shall be such as may be prescribed.

(5) The terms and conditions of the office of, including the method of filling casual vacancies in the Board, and the procedure for removal or disqualification of the Chairperson or a member of the Board, shall be such as the Central Government may, by notification, specify.

(6) The Board may, with the approval of the Central Government, make regulations for regulating its own procedure.

(7) The Board shall have a Secretariat consisting of such number of officers and employees as may be prescribed.

(8) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and employees shall be such as may be prescribed.

Functions of
the Board.

4. The Board shall perform the following functions:—

(i) to monitor the implementation of obligations under the Convention and issue such directions as it may consider necessary and expedient for the effective implementation of such obligations;

(ii) to advise to the Central Government on identification, safe-keeping, conservation and preservation of cultural heritage and natural heritage;

(iii) to issue such directions as it considers necessary to ensure safety, security, conservation and management of cultural heritage and natural heritage;

(iv) to cause or undertake an inquiry and initiate legal action in consultation with the Central Government, in case of offences relating to cultural heritage and natural heritage sites;

(v) to take such measures as it may consider necessary for implementation of the provisions of this Act; and

(vi) to undertake such other functions as may be assigned to it by the Central Government for carrying out the purposes of this Act.

Offences.

5. Whoever—

(i) damages or causes any damage to cultural heritage or natural heritage site;

(ii) indulges in any propaganda with the intention of causing any damage to a cultural heritage or natural heritage site;

(iii) commits any offence under section 30 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958; or

(iv) commits or omits to commit any act in relation to cultural heritage or natural heritage sites, which is an offence under any other law for the time being in force;

shall be guilty of committing an offence under this Act.

24 of 1958.

Punishment.

6. (1) Any person who commits any offence under section 5 shall be punishable with rigorous imprisonment for a term which may extend to five years, or with fine, which may extend to one lakh rupees, or with both.

(2) A penalty awarded upon conviction for an offence under this section shall be in addition to any penalty, which upon conviction is provided for such offence under any other law for the time being in force.

7. Notwithstanding anything contained in any other law for the time being in force, proceedings of committing an offence under this Act may be instituted after the expiry of the period of limitation.

Proceedings after the expiry of the period of limitation.

8. Notwithstanding anything contained in any other law for the time being in force, an offence punishable under this Act shall be deemed to be a cognizable offence.

An offence under the Act to be a cognizable offence.

9. It shall be the duty of every person holding a civil post in connection with the affairs of the Union or a State to assist the Board in discharge of its functions.

Every person holding a civil post to assist the Board.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

11. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Provisions of the Act to be in addition to other laws.

12. (1) The Board shall prepare an annual report, in such form and manner, as may be prescribed.

Annual report.

(2) The Board shall submit the annual report to the Central Government.

(3) The annual report shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament:

Provided that the Board may also submit interim report or reports to the Central Government, which shall cause the report to be laid, as soon as may be after it is received, before each House of Parliament.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The United Nations Educational, Scientific and Cultural Organization (UNESCO) in its 17th General Assembly meeting on 16th November, 1972 adopted a Convention relating to the conservation of world cultural and natural heritage. India has ratified this convention on 14th November, 1977. It is in our own interest to implement this convention and enact a law to give effect to the provisions of the Convention. For the conservation of cultural heritage, a suitable mechanism for vigilance and monitoring is needed. These purposes would be better served if a Board to be known as the Central Heritage Conservation Board is set up to work as a watchdog agency for the conservation of the cultural heritage and natural heritage sites in the country.

The terms 'cultural heritage' and 'natural heritage' have been given a very comprehensive meaning to include all cultural and natural heritage, provided for in the Convention and the terms also cover the ancient monuments and archaeological sites and remains defined in the Ancient Monuments and Archaeological Sites and Remains Act, 1958.

Our cultural and natural heritage sites are a vulnerable lot. We all know that people who visit such sites are not sensitive enough to try and keep such sites well maintained. It is a common practice to deface our monuments by inscribing names on them. There have also been other cases of vandalism against our cultural and natural heritage sites. Keeping in view the increasing number of crimes against such sites, there is a need to provide for punitive action for such crimes.

The Bill seeks to achieve the above objectives.

NEW DELHI;
March 20, 2015.

DILIP KUMAR MANSUKHLAL GANDHI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Cultural Heritage Conservation Board for the conservation of the cultural sites in the country. It also provides for a secretariat for the purpose of assisting the Board. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees one hundred crore per annum.

A non-recurring expenditure of rupees one hundred and fifty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3(6) of the Bill empowers the Board to make regulation for regulating its own procedure. Clause 13 empowers the Central Government to make rules for carrying out the purposes of the Bill. The matters in respect of which rules and regulations may be made are matters of administrative details and procedure and, as such, the delegation of legislative power is of a normal character.

BILL NO. 98 OF 2015

A Bill to provide for the prohibition of slaughter of cow and its progeny and other milch animals for consumption of meat or its export or for any other purpose, prevention from cruelty and infliction of trauma, pain or suffering on animals and for humane approach towards them through welfare measures and the well being of animals and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Cow and other Milch Animals (Prohibition of Slaughter, Cruelty and other Provisions) Act, 2015.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and for different provisions of this Act.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "animal" includes all domestic animals such as cow and its progeny, buffalo, goat, sheep, camel, horse etc. and captive animals or performing animals and stray animals;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "local authority" includes a municipal committee, corporation, council by whatever name called, district board, cantonment board or any authority for the time being entrusted by law with the control and administration of any matters within a specified local area;

(d) "owner" used with reference to an animal includes not only the owner of the animal but also any other person for the time being in possession or custody of the animal whether with or without the consent of the owner;

(e) "performing animal" means an animal which is used at or for the purpose of any entertainment, display, sport, cinematograph film and animal shows like equine events, dog shows, etc.;

(f) "*phooka or doomdev*" includes any process of introducing air or any substance into the female organ of a milch animal with intention of drawing off from the animal any secretion of milk;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "society" means a society established for animal welfare and for the prevention of cruelty, pain or suffering to animals and recognised by the appropriate Government under this Act;

(i) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not to which the general public have access; and

(j) "welfare organization" means an animal welfare organization which is registered with and recognised by the appropriate Government.

Prohibition of slaughter of cow and its progeny and other milch animals.

3. (1) Notwithstanding anything contained in any other law for the time being in force or contrary to food habits or religious belief, the slaughter of cow and its progeny and all other milch animals is hereby prohibited in any manner whatsoever.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Duties of persons having charge of animals or otherwise.

4. (1) It shall be the duty of every person having the care or charge of any animal, whether as owner or otherwise, to ensure the welfare and well being of such animal and to prevent the infliction of trauma, pain or suffering upon such animal and in particular shall ensure that the animal in his care or under his charge,—

(a) does not face thirst, hunger and malnutrition;

(b) does not face discomfort due to vagaries of nature and environment;

(c) does not suffer from pain, injury and disease;

(d) is free to express normal behaviour including reproduction of the species; and

(e) is free from fear and distress.

(2) It shall be the duty of the general public not to inflict injury and pain to any animal in any manner whatsoever and bring to the notice of the Board or society or welfare organization about any injured, ill or incurably ill animal in the street for taking care of such animal.

(3) The practice of *phooka* or *doomdev* or by whatever name called and giving injection of oxytocin or any other medicine to a milch animal for drawing secretion of milk from such animal is hereby prohibited.

(4) Whoever contravenes the provisions of sub-section (3) shall be guilty of an offence under this Act.

5. (I) Whoever,—

Penalty.

(i) kills or slaughter a cow or its progeny or any other milch animal either for consumption of its meat or to export its meat or for any other purpose including rituals shall be punishable with imprisonment for a term which shall not be less than five years but may extend to ten years and also with fine which may extend to two lakh rupees;

(ii) beats, kicks, overrides, overdrives, overloads, tortures or otherwise treats any animal so as to subject it to trauma, pain or suffering or employs the animal in any work or labour or for any purpose without adequate rest, food or water or the animal by reason of its age or any disease, infirmity, wound, sore or other cause is unfit to be so employed or wilfully administers any injurious drug or injurious substance to any animal or keeps any animal chained or tethered with a short or heavy chain or cord, or hobbles the legs of the animal or confines in a cage or other receptacle or mutilates an animal in any manner including ear cropping, tail docking, defanging, declawing, branding, piercing in any manner shall be punishable with imprisonment which shall not be less than two years but may extend to five years and also with fine which may extend to rupees one lakh;

(iii) being the owner of an animal,—

(a) neglects to exercise or cause to be exercised or keeps the animal habitually chained up or in close confinement; or

(b) fails to provide such animal with sufficient food, drinking water or shelter; or

(c) abandons the animal in circumstances which render it likely that it will suffer trauma, pain or suffering by reason of relocation, starvation, thirst, injury or illness; or

(d) wilfully or negligently permits any animal to go at large in any street or permits any diseased or disabled or injured animal to die in any street;

shall be punishable with imprisonment which shall not be less than one year but may extend to three years and also with fine which may extend to fifty thousand rupee;

(iv) solely with a view to provide entertainment,—

(a) confines or causes to be confined any animal including tying of an animal as a bait so as to make it an object of prey for any other animal; or

(b) incites any animal to fight any other animal or any human being or organizes or participates or acts in the management of animal fighting; or

(c) promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting; or

(d) organizes, participates, promotes or in any manner is associated with any sport or activity involving the use of animals where such animals are subjected to cruelty either during the sport or activity itself or while in training;

shall be punishable with imprisonment which shall not be less than three years but may extend to five years and also with fine which may extend to two lakh rupees;

(v) skins or roasts or kills for superstition or extracts parts of any live animal through a procedure that causes pain and suffering, for the purpose of getting skins, oils or other animal products or dynamites or electrifies stream, river or other waterbody or a fence for catching or killing an animal shall be punishable with imprisonment which shall not be less than two years but may extend to five years and also with fine which may extend to one lakh rupees;

(vi) performs upon any cow or other milch animal the operation *phooka* or *doomdev* or any other operation including injection of oxytocin or of any substance to

improve lactation which is injurious to the health or the animal, or permits such operation being performed upon any such animal in his possession or under his control shall be punishable with imprisonment which may extend to one year and also with fine which may extend to fifty thousand rupees.

(2) Nothing in this section shall apply to,—

(a) the dehorning or, nose roping castration of any animal provided it is performed by a veterinary surgeon in such manner as may be prescribed;

(b) the extermination or destruction of an incurable ill animal in such manner as may be prescribed.

Offences by Companies.

6. Where an offence under this Act or rules framed thereunder is committed by a company, every person who, at the time the offence was committed, was incharge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of one offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Recognition of Societies, Welfare Organizations etc.

7. The appropriate Government shall recognize societies, Gaushalas, welfare organization etc. for the treatment and care of animals and work as a bridge between the appropriate Government, local authority and other authorities concerned with the animals in such manner as may be prescribed.

Miscellaneous provisions.

8. (1) No person shall carry on the business of breeding or selling of any animal other than in the manner prescribed by the rules made under this Act.

(2) No person or institution shall perform an experiment on animals unless permitted by the appropriate Government in such manner as may be prescribed.

(3) Any Police Officer above the rank of head constable or any person authorized by the appropriate Government in this behalf, who has reason to believe that an offence under this Act has been or is being committed in respect of any animal may, if in his opinion the circumstances so require, seize the animal and produce the same for examination by the nearest magistrate or by such veterinary officer as may be prescribed, and such Police Officer or authorized person may, while seizing the animal, require the person incharge thereof to accompany it to the place of examination.

(4) The appropriate Government shall, by general or special order, authorise the detention of animals in respect of which offences against this Act have been committed in any Infirmaries, Society, Gaushalas, Animal Welfare Organization, etc. pending its production before a magistrate and the cost of transporting the animal thereto and of the maintenance and treatment at such places shall be payable by the owner of the animal and any amount payable by an owner may be recovered in the same manner as an arrear of land revenue.

(5) Where in any proceedings for an offence against this Act it is established that a person has in his possession, custody or control, an animal which is injured or wounded or mutilated or being experimented upon or which has been killed or has in his possession the skin of an animal or any part of the animal, it shall be presumed that such person has treated the animal with cruelty until the contrary is proved and the burden of proving which shall lie on the accused.

Cognizability of offences.

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under this Act shall be a cognizable offence within the meaning of that code. 2 of 1974.

Act to have overriding effect.

10. The provisions of this Act and of any rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

11. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for the time being in force, for any act or omission which constitutes an offence under this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act.

Operation of other laws not barred.

45 of 1860

12. Every person authorized by appropriate Government under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 and no suit, prosecution or other legal proceeding shall lie against him in respect of anything in good faith done or intended to be done under this Act.

Person authorized to be public servant and indemnity provision.

13. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Central Government to provide Funds.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament or, as the case may be, each House of the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament or, as the case may be, the State Legislature agrees in making any modification in the rule or agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our Country till recently had the largest number of animals in the world and it is one of the largest producer of milk in the world. But the number of animals is going down rapidly alongwith milch animals. As such there is a mismatch between the production of milk and per capita consumption of milk in the country. Whereas the population of the country is increasing manifold, the population of milch animals is on the decline. This mismatch has resulted in short supply of milk and its prices have increased manifold in the recent past making this commodity out of the reach of the poor people and the worst sufferers are children who are not getting milk resulting in their malnutrition. Taking advantage of shortage of milk in the country the unscrupulous and anti-social people are producing synthetic milk on a very large scale and endangering the health and the lives of the unsuspecting people. This situation has to be tackled on priority and one way to do this is to impose a blanket ban on the slaughter of milch animals in the country which are slaughtered to consume their meat and also to export the meat to earn foreign exchange at the cost of poor children who are not getting milk essential for their health.

From the ancient times cow is called *Gaumata* and is worshipped particularly by the Hindus in the country. Not only the cows milk is consumed by the people and more so by the children even the cows urine is used for medicinal purposes in various parts of the Country. Its progeny when grows as bull helps the farmers in cultivating their fields and grow cereals for the human consumption and the industry. Cow dung is used to make manure in rural India. Since cow is worshipped there is a long pending demand of most of the Hindus in the country to impose a blanket ban on the slaughter of cows and its progeny in the country. Religious leaders sadhus, saints and various political parties have consistently demanded ban on slaughter of cow and its progeny. Hence, it has become necessary to ban the slaughter of cows and its progeny throughout the country showing respect to the sentiments of majority of the people.

Of late, cruelty against animals in the country has risen manifold. People do not hesitate kicking and inflicting injuries on animals and more so on stray animals. Even the owners of milch animals after extracting their milk leave them to roam on the streets and roads and these hungry animals can be seen searching food in garbage and loitering on the roads causing road accidents in which they too are hurt and wounded. In this Bill various forms of cruelty have been elaborated. Cruelty against animals must be stopped with a heavy hand by imposing tough penalties and fines on the offenders and humane approach should be adopted towards the animals.

Hence, this Bill.

NEW DELHI;

NISHIKANT DUBEY

March 24, 2015.

FINANCIAL MEMORANDUM

Clause 13 of the Bill provides that the Central Government shall provide requisite funds for carrying out the purposes of the Bill. At this stage, it is not possible to estimate the amount to be incurred. However, the Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees ten thousand crore would be involved.

A non-recurring expenditure of rupees twenty five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

BILL NO. 96 OF 2015

A Bill to provide for the special provisions such as compulsory maintenance of food and potable water supplies for human consumption and fodder for livestock of the farmers, financial assistance for lost crops to farmers in drought affected areas of the country; creation of water bodies like lakes, ponds, wells, rainwater harvesting, diversification of water intensive crops to low water intensive requirement crops; community afforestation programmes and other action plan for the drought prone areas of the country and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

Short title and
extent.

1. (1) This Act may be called the Drought Affected and Drought Prone Areas (Special Provisions) Act, 2015.

(2) It extends to the whole India.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “drought affected area” means any area receiving below normal rainfall in any season of a calendar year and declared by Central Government, by notification in the Official Gazette, to be a drought affected area for such period as may be specified in the notification;

(c) “drought prone areas” means the areas consistently receiving below normal rainfall and includes such areas which in the opinion of the Central Government are drought prone and declared as such, by notification in the Official Gazette, in consultation with the Governments of the States concerned;

(d) “fodder” includes dry and green fodder generally fed to the livestock;

(e) “food” includes cereals such as wheat, barely, maize, jowar, bajra, rice, pulses, edible oils and fuel for cooking;

(f) “prescribed” means prescribed by rules made under this Act.

3. The appropriate Government shall maintain uninterrupted food supplies in drought affected and drought prone areas for the inhabitants of such areas in such manner as may be prescribed.

Compulsory maintenance of food supplies in drought affected and drought prone areas.

4. The appropriate Government shall maintain adequate supply of potable water through tankers and other means as it may deem necessary and appropriate, in the areas covered under this Act for such period as may be prescribed.

Maintenance of potable water.

5. The appropriate Government shall maintain adequate supply of fodder in the area covered under this Act by procuring fodder from other areas or States, as the case may be, in such manner and for such period as may be prescribed.

Maintenance of fodder supplies.

6. The appropriate Government shall provide ex-gratia and adequate financial assistance to farmers of the areas covered under this Act according to the estimated losses caused by withered crops and for revival of agricultural activities in such manner as may be prescribed.

Ex-gratia and financial assistance to farmers.

7. The Central Government shall, with the help of *Krishi Vikas Kendras* and other such organisations and research centres working for the diversification of cropping system, take steps for diversification of crops from water intensive crops to low water requirement crops in areas covered under this Act to save the ground water and reduce the dependence on rains.

Diversification of cropping pattern.

8. The appropriate Government shall promote the creation of traditional and other water bodies like lakes, ponds, wells, ditches, etc. for the collection of rainwater in order to recharge the ground water in the areas covered under this Act.

Creation of water bodies.

9. The appropriate Government shall promote rainwater harvesting in the areas covered under this Act, by providing the necessary technique and equipments free of cost through the village panchayat in such manner as may be prescribed.

Promotion of rainwater harvesting.

10. The appropriate Government shall promote community afforestation programmes, from time to time, in the areas covered under this Act, as long term action plan of such areas in such manner as may be prescribed.

Afforestation programme.

11. The Central Government shall after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, for carrying out the purposes of this Act.

Central Government to provide funds.

Power to give directions.

12. The Central Government may give such directions to the Government of any State having areas covered under this Act within its territorial jurisdiction, as may appear it to be necessary for carrying out in the State any of the provisions of this Act or of any rule made there under.

Act to supplement other laws.

13. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to make rules.

14. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Of late Santhal Pargana and other regions of the State of Jharkhand and their adjoining areas are slowly turning into drought prone areas where truant monsoons are playing havoc very frequently. Normal rainfall has become rare in these regions of the State. Similarly, large number of areas in various parts of our vast country have either turned drought prone or have been affected by drought some time or the other playing havoc and bringing miseries to the people and their livestock in such areas. When drought conditions engulf any area, the worst sufferers are the farmers and other inhabitants, having no food to eat and water to drink for their survival, resulting in their exodus. In such areas, starvation deaths are very common. The worst sufferers are the mute livestock. Their owners leave them stray and without fodder and water ultimately resulting in their death. The farmers lose their crops and hopes. The indebted farmers do not have money to restart agricultural operations even if they want. Frustrated with dashing hopes, many of them take extreme step of committing suicides. Santhal Pargana region of Jharkhand has become synonymous with suicides of farmers.

It has been observed that in Jharkhand and other parts of the country, the farmers have started growing water intensive cash crops to earn more money, resulting in decline of ground water levels to dangerous levels which makes such areas drought prone. Hence, diversification of crops from water intensive ones to crops needing very less water has become necessity of the day. Promotion of water bodies like lakes, ponds, wells, ditches etc., rainwater harvesting and community afforestation programmes have become necessary for the drought affected and drought prone areas.

At the same time, it is necessary that the supply of food, potable water and fodder is maintained uninterrupted or priority so that people do not have to leave their places and their livestock is not left to die. The farmers need to be given *ex-gratia* and financial assistance so that they do not take extreme steps of committing suicide.

Hence, this Bill.

NEW DELHI;
March 24, 2015.

NISHIKANT DUBEY

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the *ex-gratia* and financial assistance to farmers. Clause 11 provides that the Central Government shall provide requisite funds for the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to estimate the amount likely to be incurred. However, it is estimated that an annual recurring expenditure of rupees thirty thousand crore will be involved out of the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees fifty thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 107 OF 2015

A Bill to provide for the prevention of abuse and exploitation of orphan, vagabond, runaway and other street children by providing deterrent punishment for the violators and for rehabilitation and other welfare measures to be undertaken by the Union and the State Governments for such children who usually subsist on rag picking, begging, shoe polishing, working as potters, performing acrobatics or who are forced to indulge in crimes like stealing, pickpocketing, snatching, smuggling, prostitution and unnatural acts by taking their custody and providing them with shelter, care, protection, education, medical care, vocational training etc., and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Underprivileged, Orphan, Vagabond and other Street Children (Prevention of Abuse, Rehabilitation and Welfare) Act, 2015.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "child" means any person who is below the age of eighteen years;

(c) "fund" means the Underprivileged Street Children Welfare Fund constituted under section 6;

(d) "home" means juvenile home established under this Act ;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "street children" include a child who is orphan or has been abandoned or has run away from home, or vagabond and who subsists on income earned by ragpicking or begging or working as a potter or vendor or shoe shiner or petty crimes like stealing, pick pocketing, snatching, smuggling drugs or liquor etc. and who lives on a pavement or in a hutment or slum or railway platform or yard or bus stop or such other place.

National
Policy for
under-
privileged
Street
Children.

3. (1) The Central Government shall, as soon as may be, but within one year of the commencement of this Act, formulate a National Policy for the rehabilitation and welfare of the underprivileged street children covered under this Act so as to extend all rights of childhood to enable them to grow as responsible and respected citizens in the society.

(2) Without prejudice to the generality of the foregoing provision, the National Policy referred to in sub-section (1) may include,—

(a) on the basis of the census data or otherwise conducting a survey of the underprivileged street children in the country and taking their custody and provide them boarding, lodging and other requisite facilities in the homes;

(b) provision of educational facilities including higher medical, engineering, information technology education, vocational training and facilities for developing moral values and other skills among the underprivileged street children to make them self reliant;

(c) undertaking such measures including counselling, as may be necessary to discourage the children covered under this Act from returning to their earlier means of subsistence;

(d) nutritious food, medical care, entertainment facilities etc. in the homes;

(e) transport facilities between home and educational institutions, access to libraries, access to games and sports facilities free of cost;

(f) provision of employment through reservation or otherwise for the children covered under this Act after they complete their education or vocational training, as the case may be;

(g) provision of annual grants-in-aid to orphanages and Non-Governmental organisations which are working for the underprivileged street children; and

(h) such other provisions as may be deemed necessary and expedient for carrying out purposes of this Act.

Appropriate
Government
to implement
the National
policy.

4. It shall be the duty of the appropriate Government to implement the National Policy for underprivileged street children formulated under section 3.

Establishment
of juvenile
homes.
Constitution
of Underprivi-
leged Street
Children
Welfare Fund.

5. The appropriate Government shall establish such number of juvenile homes as it may deem necessary for carrying out the purposes of this Act.

6. (1) The Central Government shall, as soon as may be, for the purposes of this Act, by notification in the Official Gazette, constitute a Fund to be known as the Underprivileged Street Children Welfare Fund with an initial corpus of rupees twenty thousand crore to be

provided by the Central Government by due appropriation made by Parliament by law in this behalf.

(2) The Fund shall also include,—

(a) contributions made by the Central Government and Governments of the States in such ratio as may be prescribed;

(b) moneys received by way of donation, contribution or assistance from individuals, firms, body corporates, financial institutions of both domestic and foreign ones and organisations etc.

(3) The Fund shall be utilised for the rehabilitation and welfare of the underprivileged street children covered under this Act in such manner as may be prescribed.

7. The appropriate Government shall,—

(a) maintain a district-wise register of children covered under this Act within its territorial jurisdiction with such particulars and in such manner as may be prescribed;

(b) open such number of schools and colleges as it may deem necessary for carrying out the purposes of this Act including imparting education to the children covered under this Act and providing books, writing materials, uniforms, and other relevant articles free of cost;

(c) take custody of every child covered under this Act in such manner as may be prescribed;

(d) send every child so taken custody of to a home or to a non-governmental organisation certified by the appropriate Government in such manner as may be prescribed;

(e) take such other measures as it may deem necessary and expedient for carrying out the purposes of this Act.

Measures to be taken by appropriate Government.

8. Notwithstanding anything contained in any other law for the time being in force, whoever,—

Penalty.

(a) forces any child covered under this Act to beg, commit petty crime like stealing, pickpocketing, snatching, smuggling etc. or rag picking or any act which is injurious to the health of such child shall be punished with rigorous imprisonment for a term which shall not be less than seven years but which may extend to ten years and also with a fine which may extend to five lakh rupees.

(b) sexually exploits any child covered under this Act or forces into prostitution or unnatural act shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to life imprisonment and also with fine which may extend to ten lakh rupees.

(c) having already been convicted of an offence under this Act or an abetment of such offence is again convicted of any such offence or abetment shall be punished with life imprisonment and also with fine which may extend to ten lakh rupees.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with any of the matters dealt with in this Act.

Act to supplement other laws.

Power to
make rules.

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

It is a common sight in Mumbai, National Capital Delhi and other Metropolitan cities and urban areas where early in the morning children of all ages, particularly adolescents can be seen carrying sacks on their backs and collecting waste paper, plastic, metal scrap etc. from dumping pits and public places. These rag pickers collect the waste throughout the day and sell it in the evening to *Kabadiwalla* for their subsistence. Very often these hapless children are forced to do so by anti-social elements or mafias. Similarly, many of such underprivileged street children can be seen begging at road crossings, near religious places, markets, bus stops and other public places. Many a times, they are forced to indulge in petty crimes like stealing, pick pocketing, snatching for their survival owing to their social and financial condition. Such children have been found to be members of certain gangs and of late the street children are being used by hardened criminals even for murders as they knew that there is no jail terms for such juveniles. They are exploited and abused physically by anti-social elements, organized criminal gangs, mafias, etc. Such exploited and abused children become hardened criminals when they grow up.

The girl child in this category is very often sexually exploited and ultimately pushed into prostitution. These hapless underprivileged children fall prey to all kinds of dreaded diseases. They remain illiterate and even two square meals a day is luxury for them. These underprivileged children are in fact the most vulnerable to abuse, exploitation and depravity.

On the contrary, being the future citizens of the country the children should be brought up in a good atmosphere, providing them all requirements of life, good education and a joyful childhood with all care and love. But unfortunately in our country, there are millions of orphans, abandoned, runaway vagabond and destitute children who are mostly homeless and are known as street children many of whom are very talented but their talent goes waste.

Our country being a welfare state, it is the solemn duty of the Government to take care of these underprivileged hapless street children and ensure that they must enjoy their childhood by bringing them into the national mainstream by giving them every opportunity and protection they deserve, in order to fully develop their potentials and talent.

Hence this Bill.

NEW DELHI;
March 24, 2015.

NISHIKANT DUBEY

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the establishment of Juveniles homes. Clause 6 provides for the constitution of the Underprivileged Street Children Welfare Fund with an initial corpus of rupees twenty thousand crores to be provided by the Central Government. Clause 9 provides that the Central Government shall provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty thousand crore will be involved as recurring expenditure per annum. A non-recurring expenditure of rupees fifty thousand crore will also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only the delegation of legislative power is of normal character.

ANOOP MISHRA
Secretary General